RECREATIONAL BOATING SAFETY

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND NAVIGATION

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

MATTERS RELATED TO BOAT SAFETY AND THE BOAT SAFETY ACCOUNT, SAFETY CONCERNS OF RECREATIONAL BOATERS, AND STATE AND FEDERAL EFFORTS IN THEIR BOATING SAFETY RESPONSIBILITIES

MAY 19, 1989—NASHVILLE, TN

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RECREATIONAL BOATING SAFETY

FRIDAY, MAY 19, 1989

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Nashville, TN.

The Subcommittee met, pursuant to call, at 10:10 a.m. at the J. Percy Priest Lake Visitors Center, Nashville, Tennessee, Hon. Billy Tauzin (Chairman of the Subcommittee) presiding.

Members present: Representatives Tauzin and Clement.

Staff present: Roy Willis, Marsha Canter, Bill Wright, Lee Crockett, Sherry Steele, and Cyndy Wilkinson.

STATEMENT OF THE HON. BILLY TAUZIN, A U.S. REPRESENTATIVE FROM LOUISIANA, AND CHAIRMAN, SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Mr. TAUZIN. Good morning, ladies and gentlemen. Let me first say that I am delighted to be here in Nashville, the country music capitol of the world. And I am also pleased to welcome my dear friend and colleague Congressman Bob Clement, who so proudly represents Nashville, and I might say so artfully and skillfully represents this community and this part of our country in Washington, D.C.

The Subcommittee on Coast Guard and Navigation convenes today at the beautiful Visitor Center on the banks of the J. Percy Priest Lake to discuss issues of recreational boating safety.

Tennessee is known for its wonderful lakes and rivers where many boaters come to enjoy their free time. However, these same bodies of water present the same challenges that are confronted by boaters and law enforcement officials and the Coast Guard, throughout the nation.

We will discuss today budgetary matters related to boat safety and the boat safety account. We will talk about the safety concerns of the recreational boaters. We will hear testimony today about current Federal and State efforts in carrying out their boating safety responsibilities.

Last year, Congress reauthorized the National Aquatic Resources Trust Fund, commonly known as the Wallop-Breaux Bill at $60 million, which would be evenly divided between the Coast Guard and the States to provide better boating safety programs. The administration this year is requesting that the States' portion be cut in half, giving the States only $15 million and providing the Coast Guard the $30 million. This happens to be directly contrary to the statutes that were passed last year, and you can be assured that I

and I believe the majority of the Members of our Committee will work toward getting the full share of the $30 million for the State programs.

Today we will discuss policy questions related to user fees, boating while intoxicated, boating safety education, licensing, personal flotation devices and personal watercraft.

I look forward to hearing from the witnesses today who have this knowledge and experience in these areas and I am particularly pleased now to recognize your Congressman Bob Clement.

STATEMENT OF THE HON. ROBERT CLEMENT, A U.S. REPRESENTATIVE FROM TENNESSEE

Mr. CLEMENT. Thank you, Mr. Chairman, and to your fine staff and to the Committee and all of you who have come from Washington, D.C. to Nashville to hold this hearing today.

I asked for this hearing because we are getting ready to start another year of water recreation and I thought it was most appropriate to focus attention on the important matters related to boat safety, to user fees. I want to make people more aware of information and the boating safety educational programs. Maybe some new legislation will materialize from this hearing as well.

The Chairman is from the State of Louisiana, he is a very effective Congressman, and as all of you know, he is the Chairman of the Coast Guard Committee. I am pleased to be a Member of his fine Committee. And Mr. Chairman, thank you for convening this hearing in Nashville on the subject of recreational boating safety. As a fellow boater and fisherman, I hope this is the first of many hearings which will focus on boating safety problems and the important steps that each of us can follow in ensuring our own safety and that of our neighbor. At this and at future hearings, we will also examine the important roles of our Federal, State and local law enforcement agencies responsible for enforcing water safety laws and regulations.

Mr. Chairman, we in middle Tennessee are blessed with a large number of nearby lakes, rivers and streams that afford us a wide range of recreational opportunities. In fact, over the last several years, we have seen a tremendous increase in the number of visitors to many of our recreational areas. Since 1985, the Nashville District of the Corps of Engineers has had a 21.8 percent increase in visitations on the recreational waters in its seven-State jurisdiction.

Mr. Chairman, beside us is the beautiful J. Percy Priest Lake, which was completed in 1968 and named after the Fifth District Congressman, our late Congressman, J. Percy Priest, who after eight terms in office rose to be Chairman of the House Interstate and Foreign Commerce Committee. As a matter of fact, I might say to everyone here today, as a young boy, I was here when that dedication took place. My father had just gone out as Governor of Tennessee, and all of us were so pleased to have this as part of the new growth and development of Nashville. This lake hosted more than 9.6 million visitations last year. The Corps estimates that since 1986, Percy Priest Lake has experienced a 14 percent increase in

the number of boats on its waters, from 310,000 boats in 1986 to 353,000 last year.

Nearby is Old Hickory Lake, which is also close to the Nashville metropolitan area. In 1988, the lake had more than 9.1 million visitors, up by more than 38 percent over the number of visitors in 1986. On average, more than 604,000 boats use Old Hickory Lake each year.

Unfortunately, coincident with the increase in the number of visitors, we have seen a number of tragic drownings and boating accidents. In fact, some of these accidents have made Nashville infamous. For example, the May, 1989 issue of Soundings Magazine begins an article on "Boating While Intoxicated" by describing an accident on Percy Priest Lake which occurred last year and which killed two people. At that time, Tennessee did not have a boating while intoxicated law. We do today. The article describes the lengthy process involved in testing the driver of the boat for blood alcohol. Thanks to the efforts of one of our witnesses, the laws governing boating while intoxicated have now been changed.

But today's hearing is an effort to highlight a wide range of recreational boating safety issues, and how as boaters, law enforcement officers, elected public officials and just good neighbors, we can enjoy the recreational opportunities on our lakes, rivers and streams without maiming or killing ourselves, our family members or others.

Mr. Chairman, I am looking forward to receiving the testimony of the witnesses who I hope will describe the nature of the problems on our waterways and what steps can be taken to solve them.

Mr. Chairman, thank you again for convening this most important hearing in Nashville, Tennessee.

Mr. TAUZIN. Thank you, Bob. What Bob failed to mention to you all is that 25 years ago, I married a Clement. Down in Cajun country we call them Clemons. I am not sure if Bob and my wife are ever going to find that they are related, but it is kind of nice to have a real connection to this fine Congressman.

We came here at Bob's request, for an important reason. National statistics indicate that this is one of the districts—in fact one of the best districts, where boating safety is highlighted in its programs. It is one of the areas of our country which is making some of the best efforts in improving boating safety. We wanted to come not simply to examine the issues here, but also to highlight this good work that is occurring in this district and in this community. And Bob, I know much of that is due to the fact that those of you who, like me and you, enjoy boating personally are going to see to it that those kinds of issues never fall to the bottom of the barrel of priorities in the Coast Guard's efforts.

So we are here today to hear and learn and listen and hopefully to make some good decisions as we go forward, on boating safety. We will have five panels today. The first panel is convened in front of us. It includes Rear Admiral William Ecker of the United States Coast Guard, District 2 Commander who will be accompanied by Albert Marmo—did I pronounce that right, Al? And also Commodore Shulte and Darrell Lewis, Chief of the Natural Resources Management Branch of the U.S. Army Corps of Engineers.

Gentlemen, welcome. Admiral, we will begin with your testimony.

STATEMENT OF REAR ADMIRAL WILLIAM J. ECKER, UNITED STATES COAST GUARD, DISTRICT 2 COMMANDER; ACCOMPANIED BY: ALBERT J. MARMO, ASSISTANT CHIEF OF THE AUXILIARY, BOATING, AND CONSUMER AFFAIRS DIVISION, OFFICE OF NAVIGATION SAFETY AND WATERWAY SERVICES, UNITED STATES COAST GUARD; AND COMMODORE W. J. SCHULTE, UNITED STATES COAST GUARD AUXILIARY, DISTRICT 2 COMMODORE

Admiral ECKER. Good morning, Mr. Chairman. Thank you for the opportunity to testify at this field hearing on issues related to recreational boating safety.

I will ask that my complete statement be entered into the record. I will read an abbreviated version to highlight some of the areas that I think need to be said here this morning.

Mr. TAUZIN. Indeed, Admiral. Without objection, it will be included. And for the record, let me make a point that will generally apply to all witnesses today. All of our written statements will be incorporated officially into the record of these proceedings. And we will ask you all, rather than reading those lengthy documents that we have before us, if you will kindly summarize and hit the highlights so that we can get into Q and A as quickly as we can.

Admiral, please proceed, sir.

Admiral ECKER. Yes, sir. I will focus my comments on the boating safety program in the Second Coast Guard District from four perspectives; search and rescue, education, alcohol abuse, and our relationship with the States.

Located in the heartland of America, the Second Coast Guard District includes nearly 7000 miles of navigable waterways in a 22-State area stretching from Wyoming to West Virginia, and from Minnesota to Louisiana. Units in the Second District include 18 river tenders, six marine safety offices, nine marine safety detachments, four Director of Auxiliary offices, a Loran station and an Omega station.

The Coast Guard in the Second District, similar to the Coast Guard overall, relies quite heavily on the Coast Guard Auxiliary to carry out most of its recreational boating safety programs. This is accomplished through training, public education, courtesy marine examinations and on-the-water patrols. A slow but constant decline in nationwide Coast Guard Auxiliary membership over a ten-year period was reversed in 1987, and fortunately the upturn in membership is continuing.

The Coast Guard's traditional search and rescue mission is unique on the western rivers of the Second District in that there are no search and rescue stations. The last search and rescue station in the District, Louisville Lifeboat Station, was closed in 1972. Because the Second District extends over such a large geographic area, the Coast Guard relies heavily on the Coast Guard Auxiliary, local marine police, fire departments, State conservation agencies and others to respond to distress calls from the more than 2.6 million registered boats in this District.

During Fiscal Year 1988, throughout the Second District, the Coast Guard conducted 2,293 search and rescue cases, saved the lives of 48 mariners, assisted 8500 other persons in need, and prevented the damage or loss of hundreds of millions of dollars worth of property. On the other hand, regular Coast Guard assets have been insufficient to meet the enormous demands generated by large on-the-water functions such as the Riverbend Festival in Chattanooga, the Tall Stacks Regatta in Cincinnati last summer, the Mississippi River Race, or even the numerous smaller sailing regattas which are held each summer here on Old Hickory Lake.

In these instances as well as during routine summer time boating activities, Coast Guard Auxiliary augmentation is invaluable. Auxiliarists conduct on-the-water patrols where they volunteer their own facilities and their time to perform safety patrols, regattas and non-emergency search and rescue missions. In the Second District, there are approximately 3500 active auxiliarists compared to only 775 active duty Coast Guard people. The Coast Guard, the Coast Guard Auxiliary, the States and the local agencies assist each other in saving lives and property. The boating safety account of the Aquatic Resources Trust Fund has made this type of cooperation possible and has fostered an ever-increasing role for the States and local agencies in the Recreational Boating Safety Program.

Addressing education, my second area of emphasis, the U.S. Power Squadron and the Coast Guard Auxiliary, along with the States, provide the major role in educating the boating public. While the Power Squadrons and the Coast Guard Auxiliary have been the traditional boating educators, the States have entered this area in recent years. State boating safety courses or basic boating brochures are offered in all of the 22 States in the Second Coast Guard District. The Coast Guard looks to the States, the Power Squadrons, the Auxiliary and others to try and keep pace with increased educational and safety awareness programs. Yet best estimates are that only a small percentage of the boating public is being reached with any kind of formalized boating education program.

Recognizing the need to increase participation in these education programs, National Safe Boating Week highlights educational opportunities and targets the small boater who uses a boat for fishing, hunting, water skiing or occasional cruising. National Safe Boating Week is June 4 through June 10 this year, and again the theme is "Know before you go".

My third area of emphasis is the issue of alcohol abuse in the recreational boating community. We believe that alcohol abuse is a contributing factor in 50 percent of reportable boating accidents. Operating a vessel while intoxicated became a Federal offense in 1984, and violators became subject to civil and criminal penalties after January 13, 1988. The key to an effective campaign against drunk boating is to couple an aggressive education and public information campaign with strong enforcement standards. Current standards include behavioral signs of intoxication, an independent blood alcohol concentration (BAC) test, and a presumption of intoxication if testing is refused. The BAC level for intoxication is .10 percent for recreational vessel operators.

The State of Tennessee passed a State law in April of this year which prohibits operation of a recreational boat while under the influence of drug or alcohol, and sets the level of "operating under the influence" at .10 blood alcohol content.

The momentum to require sobriety while boating is building nationwide. Most States either have satisfactory intoxicated boater operating laws or are working towards strengthening their laws.

The Second District Auxiliary public affairs program, which is part of the Auxiliary public education effort, made over 6000 public appearances and public service announcements in 1988, many highlighting the subject of intoxicated boaters.

With respect to State relationships, my fourth area, working relationships between the Coast Guard and individual States continue to be excellent and productive in all respects. Previous Second District Commanders have negotiated written agreements with all of the States in this District addressing boating safety issues such as search and rescue, public education, boating casualty investigation and reports, regatta patrols and law enforcement. Each State boating law administrator has an ongoing working relationship with my Boating Safety Division in St. Louis. A Coast Guard Auxiliary liaison officer to the State boating law administrator has been appointed in each State. Coast Guard Headquarters is in the process of hiring four new positions to bolster our nationwide State liaison efforts. These positions will enable us to better assess Wallop-Breaux State grant fund allocations and work directly with the States to evaluate and improve their programs.

In conclusion, the reduction in the number of fatalities in the 15 States within the liaison jurisdiction of the Second Coast Guard District is reflective of the national trend. There were 23 fewer fatalities in 1988—down to 153 in these States—than in 1987. Nationwide, the number of reported fatalities hit a record low of 946 in 1988, a rate of 5.5 fatalities per 100,000 boats. State boating safety programs are a major reason for this success. With the re-authorization of expenditures in the boating safety account of the Aquatic Resources Trust Fund through 1993, I look for continued State contributions to boating safety. Our challenge now is to build upon the mutual spirit of support and cooperation among all recreational boating organizations and regulators, so the waterways will become even safer in the future.

Thank you, Mr. Chairman.

Mr. TAUZIN. Thank you, Admiral. Mr. Lewis, would you please now summarize your testimony for us.

[The statement of Admiral Ecker can be found at end of hearing.]

STATEMENT OF DARRELL LEWIS, CHIEF, NATURAL RESOURCES MANAGEMENT BRANCH, U.S. ARMY CORPS OF ENGINEERS

Mr. LEWIS. Thank you.

Mr. Chairman and Members of the Subcommittee, I am Darrell Lewis, Chief of the Natural Resources Management Branch of the headquarters of the U.S. Army Corps of Engineers. I am pleased to be here this morning on behalf of the Department of the Army to discuss water safety, including boating safety.

Drowning is the second leading cause of accidental death in the United States. The Corps of Engineers has undertaken water safety campaigns for a number of years to reduce the number of fatalities at its lakes and other water resources projects.

Our approach to water safety is guided by four principles:

——The Corps supports State boating under the influence laws with enforcement and penalties comparable to highway driving under the influence laws.

——We also support mandatory Personal Flotation Device, or PFD use; common rules of the road regulations, water safety education activities and services from volunteers.

——We believe that water safety is a matter of social attitude and constant awareness of danger.

——And we believe people react well to clear consensus on the need for constraints, but poorly to sudden restrictions imposed on them.

The Corps operates 472 water resource projects and it is America's second largest Federal provider of recreation services with visitors spending nearly 192 million visitor days at our projects.

Since our visitors are attracted to the lakes, water safety is a major concern. In 1971, before the Corps had any formal water safety programs, we had 475 drownings at our lakes. Since then, every district has become involved in water safety. As you can see in our visual here, our visitation has continued to move upward and the red line showing the fatalities is declining.

Most of the fatalities involve people who are either swimming or boating and many were alcohol-related. We share the views of the Coast Guard in the high percentage of alcohol related incidents. Other fatalities occur when individuals dive into shallow water, ski onto rocks or other submerged objects, fail to wear PFDs and went wading where they should not.

The greatest percentage of fatalities include individuals in the age group of 21 to 29. Therefore, we have focused our campaigns on incidents like we have described and the age level here that we have shown.

In 1986, a national water safety campaign from our headquarters was developed to supplement and enhance the outstanding water safety accomplishments at our projects. This campaign focused primarily on water safety educational materials and posters such as we have shown here, and personal service announcements, billboards and similar facilities.

The purpose was to develop an annual campaign complete with the theme "Your Safety—Our Concern", and high quality products to support our managers, rangers and other field personnel in their water safety activities.

The Corps has been directly involved with the National Water Safety Congress through a strong and active membership and by serving in key leadership roles with the organization. The Congress is a group of interested agencies and individuals supporting water safety at a local level as well as on a national basis.

Locally, the Corps' Nashville District has been a leader in developing aggressive water safety campaigns. They have done extensive research into the circumstances of the fatalities that have occurred and targeted messages at the appropriate age groups and user

groups. We have on display here a number of examples of some of the excellent work they have been doing and I hope you will be able to take a look at those.

Their efforts have included:

——Adopt-A-School programs, particularly at the elementary level with water safety-related games throughout annual "Little Engineers Days".

——Extensive pre-Memorial Day radio and TV news and public affairs coverage that emphasizes the dangers of mixing alcohol and water sports.

——Follow-on appearances on radio and TV talk and outdoor sportsmen's shows, together with public service announcements throughout the recreation season. As you go around town, you may have seen some of the water safety signs that are flashing on billboards and things like that. We are working towards a public awareness and we are happy with the efforts of the Nashville District.

Media coverage is the visible reminder of our concern for water safety. It complements, both here in Nashville and nationwide, the work of our rangers and other personnel who are involved in water safety. You can be proud of these dedicated men and women. They are well-educated, highly motivated, articulate and enthusiastic about their work.

They can be found, day in and day out, teaching water safety skills in classrooms, conducting courtesy boat inspections, offering helpful hints at campfire gatherings and calming down parties where the participants may have had one drink too many or otherwise have become rowdy.

In addition, I commend the Coast Guard and the Coast Guard Auxiliary for the support we have received over the years. The Auxiliary, together with other safe boating organizations, has been extremely active in water safety at many of our projects and has contributed significantly to reducing fatalities.

I appreciate this opportunity to testify and will be happy to answer your questions. I would like to furnish each of you with a copy of our 1988 Water Safety Catalog which illustrates some of the materials we have discussed.

Mr. TAUZIN. Thank you very much, Mr. Lewis.

[The statement of Mr. Lewis can be found at end of hearing.]

Mr. TAUZIN. Commodore Schulte, I know you have not prepared a statement, but as Commodore of the Second District Auxiliary, we want to first welcome you and thank you for your efforts. We have heard some nice, complimentary remarks about the efforts of the Auxiliary in this District and the work you do. Perhaps you would like to make a comment or two before we get into questions and answers.

Commodore SCHULTE. I do not have prepared text, Mr. Chairman, but thank you very much for having me to represent the interests of the Auxiliary and the boating safety community in conjunction with the efforts of the Coast Guard. If I can help with the question and answer session, I will be glad to. Thanks for having the Coast Guard Auxiliary represented.

Mr. TAUZIN. Thank you.

Admiral, we are, first of all, as I pointed out, pleased with many of the efforts that are going forward and I think, Mr. Lewis, the graph you showed with reference to the ever-increasing American appetite for recreational boating pleasures, and at the same time a declining curve in fatalities, is encouraging. Nevertheless, we still have problems, we know it. And as we face those problems, we seek your guidance in resolution.

First of all, Admiral, the point you make in your testimony that 50 percent of boating accidents, as you can gauge them, are alcohol-related, is quite an alarming number. We have just heard testimony yesterday in Alaska from one of the crew members of the *EXXON Valdez* that he and the Captain were drinking for three hours before they got on the vessel and tried to leave Prince William Sound only to end up on Bligh Reef.

Recently a nominee for a major cabinet position in the country had problems with alcohol that highlighted national interest in this area and we saw the trauma it caused in Washington, D.C. over the disapproval of that nomination.

Alcohol still remains—and alcohol abuse still remains, if you will, a hot burning issue in America along with the other drug abuse problems. And we are pleased, Bob, that Tennessee and so many other States have followed the Federal lead in adopting drinking while operating vessel legislation to help indeed clamp down. The problem with most drunk driving legislation is not in the language of the bill, nor in the intent of the authors nor in the good intent of the law enforcement officers. Very often it is in what happens after that, what happens in fact when cases are brought and tried, and whether or not there is a good record of conviction and there is a clear message that in fact this country cannot tolerate, for the safety of the driving public or the boating pubic, people operating vessels while intoxicated.

What is the experience here in Tennessee and Nashville with the Tennessee law. Is there good enforcement in the court system of the new laws against operating a vessel while intoxicated?

Admiral ECKER. With respect to Tennessee, and many of the other States that have recently taken a stand and enacted legislation regarding the drunk boater, I do not really think that the experience we have had so far lends itself to any kind of statistics or trends in this area. It is just a little bit too soon to be able to go back and develop a history and say one way or the other, as far as the courts are concerned. So I really do not have a good answer for that particular thrust.

Mr. TAUZIN. I realize you do not have statistics yet, but can you just tell me from your experience? Are we going to go through a period like we did with drunk driving when courts were very lenient, very nice to drunk drivers and mothers had to unite in a major campaign across America, Mothers Against Drunk Driving—you remember the MADD group organizing and insisting that there be mandatory sentencing and mandatory license restrictions. Of course we do not have some of those same leverages in the boating area yet. Nevertheless, it took a major effort of mothers across America to insist that the court systems and the legislatures of the various States insist on mandatory penalties.

Do you see that as being necessary here or do you see the same sort of reaction in the court systems now to boat operation cases as they are now applying to automobile operation cases?

Admiral ECKER. Since I do not have too much information relative to State activities here within the Second District, if I might draw upon, over the last year, the experience that I had along the coast——

Mr. TAUZIN. Yes, please.

Admiral ECKER. ——within the Fifth Coast Guard District, which encompasses the middle Atlantic portion of the United States. I would have to say that in States such as Maryland, which have been very aggressive in pursuit of drunk boating legislation and the drunk boater, their prosecution and their efforts and their cooperation have been very good. There are other States that perhaps either because they do not have the amount of recreational boating in the area or the problems have not manifested themselves to the same degree, do not pursue it with the same vigor. The interest factor is not there. So I would say as a general answer to the question, that those that have a great deal of recreational boating in the area, that have been plagued with the problem and the aftermath of the drunk boater have been a little bit more vigorous in their prosecution. But it is a gradual up-swell as the realization and the problems take effect.

Mr. TAUZIN. One of the things that was there to use as leverage against the drunk driver, was the mandatory suspension and removal of license privileges. What is the feeling of your office in regard to the proposals for mandatory safe boating education or mandatory licensing?

Admiral ECKER. The Coast Guard supports the efforts of the States in terms of those that are interested in implementing a mandatory education program. We have not taken a formal stand on it, but we basically have said that if the States wish to do so, we will support them. The National Boating Administrators have developed a model course which is available for use by those States that may wish to do so. The Coast Guard has not formally endorsed it one way or the other.

Mr. TAUZIN. How about mandatory licensing?

Admiral ECKER. No, I do not believe we have taken a stand on that either, Mr. Chairman.

Mr. TAUZIN. Are you reviewing it, are you examining it or is it simply something you are waiting to see legislative action on?

Admiral ECKER. I cannot speak for what the folks in Headquarters are thinking right now, but my perception of our position probably is that we are not generally in favor of that because we simply do not have the resources within the Coast Guard to adopt that kind of a program.

Mr. TAUZIN. Mr. Lewis, do you have a feeling yet on mandatory licensing?

Mr. LEWIS. No, sir, most of our activities are in managing the waters and lands and we have left that primarily to State government. We supported the driving while under influence laws of the States, but that has been our position rather than actively trying to get that type of regulation.

Mr. TAUZIN. Commodore, do you have a comment representing the Auxiliary?

Commodore SCHULTE. Well, we are a little new at this. We are waiting to see what is going to happen in some of the places where mandatory education is being implemented. This represents a monumental educational task. If they suddenly told us tomorrow that 16 million boaters are required to get public education in the next three weeks, we would certainly be overwhelmed. Considering mandatory licensing, very candidly, Mr. Chairman, I do not think the Coast Guard Auxiliary, the Power Squadrons, the Coast Guard, the Corps of Engineers and everybody else has sufficient resources to meet the demand suddenly thrust upon the educational scene. So, how we are going to accomplish this education needs to be part and parcel of the legislation to enact it, so that we do not have the requirement without the facilities to carry it out.

Mr. TAUZIN. Let us quickly touch resources, Admiral: What is the experience within the Second District regarding trends in personnel, equipment, and supplies with reference to boating safety programs and other programs. Are you feeling the pinch? Are you well-resourced?

Admiral ECKER. I do not think there is any District Commander that with a straight face, Mr. Chairman, is going to tell you that he is well-resourced. And I certainly am not going to say anything differently. I mentioned we have 775 Coast Guard people to cover a 22-State area. We are very thin throughout the Second Coast Guard District, but that is no different than many other District Commanders.

Mr. TAUZIN. I think America has not yet realized the incredible missions of the Coast Guard, placed against the fact that Coast Guard personnel number fewer than the personnel employed by the New York City Police force. And we have found that in every district we have examined, under-staffed, under-resourced and yet doing outstanding work. It is no different here in the Second District, I take it.

Admiral ECKER. No, sir, not at all. As an aside, I might add that we have people from the Second Coast Guard District today in Valdez, Alaska, contributing to the overall tremendous effort in cleaning up the aftermath of the *EXXON Valdez* casualty.

Mr. TAUZIN. A couple of other quick questions and then I want to turn it over to Bob. One, it has been the experience of most of us who enjoy boating ourselves or are around the boating industry and are recreational boaters, that most accidents go unreported unless they are reported on some insurance form, and unless it is a major accident in which there has been a fatality or something. Is the Coast Guard currently working with insurance companies to improve accident claim forms and better analyze them to determine the cause and extent of accidents, that we might indeed work toward prevention and cure?

Admiral ECKER. Yes, sir, very definitely so. I might just add, for clarification purposes, for fatalities, that our accident reporting system is quite good for fatalities. It is the non-fatal accidents where we lack the data in the same quantity. The Office of Navigation in Headquarters has undertaken a special project and has assigned one of our national Auxiliary Commodores, who is an insur-

ance executive by background, to work directly with insurance companies and insurance agencies to foster and promote the development and the awareness on the part of individuals who suffer an accident, of the need to submit accident data. We are also looking at the tie to the insurance industry at the national level. Our advisory committee has a subcommittee dealing directly with the insurance companies, trying to promote—to get the insurance companies to make their clientele aware when they do have an accident of the need to submit reporting statistics to the States regarding that accident. So there are a number of places where this is undertaken.

Mr. TAUZIN. None of that is mandatory, right?

Admiral ECKER. No, sir.

Mr. TAUZIN. It is all done in sort of a collegial atmosphere, and so in some cases the statistics we have on accidents may be faulty.

Admiral ECKER. Well the reporting part of it is a requirement, but the insurance tie-in is not a requirement.

Mr. TAUZIN. That is the point. Thank you.

Finally, you mentioned that you are in the process of putting together a four-man team that is to handle the boat safety account, which—by administration request—is subject to be cut in half if we are not careful. Congress, last year, insisted that that be done. We received testimony at other hearings that there was slowness in calculating the account, slowness in advising the States what would be available, and we tried to get a handle on that. Why are we still waiting for that particular section to be impaneled and working?

Admiral ECKER. Mr. Chairman, we have screened the candidates for those four positions, and as a matter of fact, the interview process will be conducted next week. My colleague, Mr. Marmo, will be on the panel selecting individuals for those four positions. So we are very close.

Mr. TAUZIN. Good. I am happy now to recognize the Congressman from Nashville, Mr. Bob Clement.

Mr. CLEMENT. Thank you, Mr. Chairman. Any of you feel free to answer the questions as I ask them. I will ask the first question to our Admiral.

As you mentioned awhile ago, I believe you have jurisdiction over 22 States?

Admiral ECKER. That is correct.

Mr. CLEMENT. How many States within the jurisdiction of the Second Coast Guard District have enacted boating while intoxicated laws?

Admiral ECKER. The most up to date count regarding the 22 States shows 11 have enacted statutes to address the boating while intoxicated issue.

Mr. CLEMENT. Is boating while intoxicated age specific or do you see intoxication in boaters of all ages and experience?

Admiral ECKER. The best that we can glean from the accident data that we have does not suggest that any particular age group is particularly vulnerable or culpable in this area. It generally mirrors the age range of the boating population in general.

Mr. CLEMENT. Now many of the lakes here in Tennessee are under the jurisdiction of the Army Corps of Engineers or the Tennessee Valley Authority, where I had the opportunity to be direc-

tor for several years. What is the Coast Guard's role on these lakes?

Admiral ECKER. Basically the role that we have on the lakes is in the area of aids to navigation placement for safe navigation of the hazardous areas, and the navigable channels. Where you have commercial commerce on any of these waters, we are involved in the enforcement of the regulations regarding tugs and barges, cargoes, and that sort of thing. The only patrolling that we would be doing on any of these lakes would be through the auspices of our Coast Guard Auxiliary.

Mr. CLEMENT. Here in Nashville, the Coast Guard maintains a marine safety detachment I have had opportunity to meet with. What are its responsibilities and what kind of activities are its officers and enlisted personnel involved in?

Admiral ECKER. The safety detachment here in Nashville is a six-man detachment, two officers and four enlisted men. They cover a great deal of the waterway on the Cumberland River and the Tennessee River. Their primary responsibilities include the commercial vessel safety program, which is primarily the inspection of barges and the investigation of accidents regarding commercial traffic. They have responsibilities in the area of marine environmental response to an oil or a chemical release and also any port safety or security activities, which do not occur too often. They would have the responsibility for those three of the Coast Guard programs.

Mr. CLEMENT. Now what recommendations does the Coast Guard have for States whose boat safety programs will be reduced because the Administration has requested a 50 percent less than last year State share of the boat safety account?

Admiral ECKER. I am not sure that we——

Mr. CLEMENT. I do not think that word has really gotten out yet. I would like to know what you have heard from the various States. Maybe most States are not even aware of what is happening.

Admiral ECKER. I have not heard a great groundswell from the States, although I am aware of the fact that obviously the States have reason to be displeased over the split. I have not been privy to any great upswelling on the part of the States, but I understand that the boating law administrators have taken a position on the subject.

Mr. CLEMENT. A current controversy exists on the adequacy of personal flotation devices approved by the Coast Guard. Without repeating the controversy, let me ask whether the Coast Guard is evaluating the recent study findings of the BOAT/U.S. Foundation.

Admiral ECKER. Each personal flotation device comes with a pamphlet that looks like this [indicating]. This is a relatively new pamphlet. It is a little bit more explanatory in terms of the proper utilization of the different types of life jackets. I think this somewhat parallels the concerns of BOAT/U.S., except for the fact that this is not permanently attached to the PFD as BOAT/U.S. has suggested it should be.

I suspect that we will look into the BOAT/U.S. findings to see what the merits might be vis-a-vis what we currently have in place. If a regulatory project to amend what we are currently doing is feasible, we will take a good look at it. But I think what we have

right now certainly is quite explanatory. It is relatively easy to understand on the part of the boating public.

Mr. CLEMENT. Mr. Lewis, do you want to comment on that?

Mr. LEWIS. Well sir, one of the concerns we have is the requirement that the PFD be in the boat and it frequently is stuffed under something and in that type of an accident or an incident they are hard to come by. That is a concern. We understand on a hot summer day, it is not necessarily convenient to have one on all the time, although I personally when I fish, I wear mine all the time but I see a lot of folks who do not. We have just got to have some quickly reachable PFD available to the individual when an incident occurs. I think there needs to be an awareness of the need for that. Something stuffed under a bulkhead is not really available.

Mr. CLEMENT. Would you please explain what you think may be the advantages or disadvantages of requiring all children under the age of 12 to wear PFDs when aboard a vessel?

Mr. LEWIS. Yes. We are concerned that the small children, many of whom are not good swimmers in the boating vicinity, are also not stable in that they can easily take a wrong step and slip overboard, and we just think it makes good common-sense. I as a parent have always insisted that my children wear a PFD until they were very good swimmers, and even then, I frown at them when they do not put one on as we go boating. It just seems to make good sense because of the combination of their liveliness on the boat, you never know for sure what direction they will be leaning. If the boat happens to go one way and they go another, they can end up in the water rather quickly, and it just makes good sense for the youngsters to have a PFD and have it required.

Mr. CLEMENT. Let me ask you all this, I know there has been more and more attention focused upon this—the user fees that have been proposed. We all know that we have excise taxes now and now the administration, the Bush Administration, has proposed user fees. This was brought up by the 100th Congress and defeated. The Committee opposed it as well and it was defeated. Now the Bush administration is proposing user fees again and it would just go into the general fund. It would not go to the Coast Guard or boat safety programs or whatever.

Would any of you like to comment on that? And I realize that is a rather sensitive issue for some of you.

Admiral ECKER. Yes, sir, it is.

[Laughter.]

Admiral ECKER. I think I ought to let my comment rest at that. But this is obviously something that our Commandant has talked about in hearings earlier this year before the full Subcommittee. It is, in general I would say, indicative of the thrust to recover some of the cost of the Coast Guard in terms of the people who benefit from those Coast Guard services.

Mr. CLEMENT. Commodore?

Commodore SCHULTE. No.

Mr. CLEMENT. This question is going to be brought up again during the hearing, but I surely did not want to leave you out of the conversation.

Mr. Marmo, did you want to add anything to anything that has been said?

Mr. MARMO. On user fees?

Mr. CLEMENT. No, on anything.

[Laughter.]

Mr. MARMO. Well we can go back to mandatory boating safety education and licensing. The Coast Guard strongly approves of the National Association of State Boating Law Administrators' guidelines for a mandatory State education program. The Coast Guard does not feel that licensing is something that should be done at the Federal level. The theme of National Safe Boating Week the past two years has been boating safety education. And education is a strong element of boating safety programs.

Mr. CLEMENT. Mr. Lewis, I would ask you one more question. Would you please describe the regulations regarding the possession of alcohol beverages at the Corps of Engineers facilities in the Pittsburgh District and the regulations at local lakes around Nashville, especially here at J. Percy Priest Lake—would you explain the basis for any variance between the two sets of rules?

Mr. LEWIS. Yes. And let me first put it in the context of our national regulations in that area. We have regulations concerning the public use of the lands, the recreation lands around the lakes. In these regulations we have provided for local regulations for specific situations. In Pittsburgh, there were a number of instances of boating and water safety concerns as well as rowdiness and just difficulty and conflict between users which was diagnosed as relating to the use of alcohol. And so an effort was made to prohibit the use of alcohol. These are smaller lakes so that was instituted as a local regulation there, to prohibit that. It has been quite successful. We expected really more opposition than we got.

In Nashville District, we have some specific recreation areas where the situation called for something to be done because of the use of alcohol--again it is not just water safety that influenced these requirements, it was also the activities of the users there, rowdiness and that. So in the Nashville District we have some areas where the use of alcohol is prohibited, but not entire lakes. These are large lakes here and it would be very difficult to either enforce that or make it happen here. But I think that is what you were getting at.

Mr. CLEMENT. Yes. Thank you very much.

Mr. TAUZIN. Thank you, Bob. Admiral, one area we did not cover was the area of personal watercraft, it's an exploding area of boating and water-related activities.

For the purposes of all here, the personal watercraft are those new devices with internal combustion engines that operate basically in a jetstream of water. Jet skis and all sorts of different varieties of those are typical—like the three-wheeler. They have come under some real questions about safe operations and rentals to people not trained in their use. And Florida is considering a State statute dealing with operation and rental. The manufacturers are working for, I understand, a set of standards for State legislation in the area.

Does the Coast Guard now have any standards for operation of these personal watercraft, and if not, if you are leaving it to the States, do you recommend any particular standards to the States?

Admiral ECKER. The National Boating Safety Advisory Council has formed a personal watercraft subcommittee very recently, which is looking into the entire issue of personal watercraft. There is no doubt that the numbers of accidents and the deaths involving personal watercraft are on the rise. Whether this is more than the commensurate rise in the use of this particular equipment, I am not aware, but the numbers are going up and that is of concern. They are looking at the entire spectrum of things to address on the subject of personal watercraft. This includes what the States are doing, in terms of restricting the locations that these particular watercraft can be used. They have come out very strong with their recommendation that wearing of PFDs be mandatory while people are using these personal watercraft, and a number of things along this line. From the manufacturing and the standards of the watercraft itself, to the on-the-water utilization, they are looking into it.

It is a new subcommittee, we really have not seen too much from them, and they are looking very carefully at what some of the individual States might be doing in terms of their own restrictions.

Mr. TAUZIN. Mr. Lewis, do you have any comments regarding the explosive use we see in every community, of these new personal watercraft. Is that a problem you are experiencing in the lakes you regulate?

Mr. LEWIS. Yes, sir, it is a problem, not necessarily on a water safety basis, but just competition for the use of facilities. Our launching ramp areas are crowded, and the heavy use area. A phenomenon that has come up in some of our heavily used lakes is dry storage, there is a whole group of people with their boats stored on racks just off from the lake. Like Lake Lanier near Atlanta is heavily used, so we are concerned about the level of use on a weekend out there and even a lake such as J. Percy Priest here, it is difficult.

I think the craft are better though in terms of construction and flotation than they were in earlier times. So from that standpoint, I think the industry is coming along on safety concerns as well.

Mr. TAUZIN. Well gentlemen, let me thank you. We are going to move on to another panel unless any of you have some last parting shots or comments you would like to make.

Commodore, I thought you had something to add. You looked like you were ready for something.

Commodore SCHULTE. Mandatory PFD wearing is probably down the road somewhere. A person on a jet ski is not going to have time to put a life jacket on when he flips the boat. A child, a teenager, an adult, an elderly person is not going to have time to put on a carefully fitted PFD on that is handy as they pitch over the side when the boat lurches suddenly.

This reminds me of the early days of seatbelts in automobiles. First, people do not like to wear them, they are inconvenient. Well the first thing, they required them to be in the vehicle, then they required you had to have them on if you were in the front seat of the vehicle or if you were under five years old. And finally they said seat belts can save your life, if you are in a car you have got to wear them. And I wonder if that is not the same situation, same approach—teenagers are just as dead when they drown as children are, and if you hit your head going over the side you are not going

to have time to put a PFD on. What we preach in our boating safety classes is, that a lifejacket will not save your life unless you wear it.

Mr. TAUZIN. Commodore, I suppose what you are saying is that we are kind of tiptoeing into this area just as we tiptoed in other safety areas.

Commodore SCHULTE. Because of the natural reluctance.

Mr. TAUZIN. Reluctance to mandate into personal lives, and yet at the same time we all know and it is the general opinion here that in all too many cases, it is too late to fumble for a personal flotation device when the boat is going down and when you are flipped out of it.

Any last comments, Admiral?

Admiral ECKER. I would just like to go back to one of Congressman Clement's earlier questions. He asked whether there was any disadvantage in requiring children under 12 to be mandatorily wearing their PFD, and I would on the record say there are no disadvantages that I can see.

I would also like to say again for the record, Mr. Chairman, that if it were not for the Coast Guard Auxiliary here within the Second Coast Guard District, I simply could not do all the things that I am supposed to be doing in the area of boating safety. So I take my hat off to them completely.

And lastly, thank you for the opportunity to be here today and represent the Coast Guard before your Subcommittee.

Mr. TAUZIN. Thank you, Admiral. We are also pleased to note the upturn in the membership of the Auxiliary. That is a good sign. It means indeed that not only is the Auxiliary alive and well, it is growing and it has the respect and admiration of the Coast Guard. Thank you very much.

Thank you all very much for your testimony.

We will now go to panel two and as we assemble the second panel, let me introduce them to you. This panel will include a list of State and local officials interested and involved in the area of boating safety, begging with the Honorable Ben West, Jr., a Tennessee State legislator; George Stewart, Jr., Director of Government Affairs, National Association of State Boating Law Administrators; Colonel Donald Ellingsen, Director of the Florida Marine Patrol; Lieutenant Colonel Charlie Clark, Assistant Chief of Enforcement Division, Louisiana Boating Law Administrator and in fact Charlie might even tell you about a personal boating accident that someone in this room had—and Ed Carter, Assistant Regional Manager of the Tennessee Wildlife Resources Agency. Gentlemen, welcome—you are not all here yet. Here we are.

Ben, let me first welcome you and again remind all of you that we have your written statements and you can just summarize and chat with us today about what you think we ought to be thinking and doing in this area.

And to particularly welcome you, Ben, I served in the State legislature in Louisiana so I have a particular empathy for anyone who serves at this level of government.

Mr. WEST. Let me welcome you to my District, Mr. Chairman, and exonerate you to act accordingly, please.

Mr. TAUZIN. All right, fine. Please, if you will, give us your testimony.

STATEMENT OF THE HON. BEN WEST, JR., TENNESSEE STATE LEGISLATOR

Mr. WEST. This year, after much deliberation, finally the State legislature passed a very monumental piece of legislation concerning BUI, boating under the influence. This was a result of a task force that was put together over the last summer and fall, the Conservation League and the TWRA brought together members of the community who were involved in boater safety.

And in essence what it did is to pattern the BUI bill after our DUI bill, which is one of the strongest in the nation. And very simply it has three offenses, and it goes upon the understanding, Mr. Chairman and Members of the Committee, that .10 is indeed the alcohol level where other States have different types levels. And under that, the first offense would be a $250 to $1000 fine; could be a possible jail sentence up to 11 months 29 days.

One part of the bill which we were unable to get in, which would have been great and we will come back and do that at a later time possibly, is the suspension of privilege to indeed use the boat for up to one year.

Second offense it moves on to $500 to $2500 fine, again 11-29 and then the third needless to say is $1000 to $5000 fine.

It is an implied consent bill. It requires blood alcohol tests for operators of boats when a fatality or serious injury has occurred. Now we hope that the TWRA will be enhanced monetarily from the State budget to increase the number of State officers that are indeed on our lakes.

If you will note in Tennessee we are blessed with great steams and lakes, as in the Fifth District we are blessed with Congressman Clement. Let the record reflect, Mr. Chairman, that his greatest asset is indeed his wife, Mary, and she is probably the reason that he is here today.

Mr. TAUZIN. I want you to know that is common knowledge in Washington, D.C. as well.

Mr. WEST. Good.

[Laughter.]

Mr. WEST. To refute that would have put an otherwise black mark on an unblemished record that he now has.

We are right proud of this particular piece of legislation. We are in the midst also in the latter days of the legislative session going through a Tennessee Sentencing Commission 460-page bill—that sounds like Congress I realize. However, in there we are going to try to include this particular piece of legislation in that particular bill so that it will be more meaningful.

What it means to us in the State of Tennessee is that TWRA now, upon arresting someone and approaching them on our lakes, they do not have to call local authorities to come in and go through the arrest and even to court. It allows these types of individuals to remain on the streets. It further gives direction to our judges and mandates to them the parameters in which they operate. We want

the word to get out to all Tennesseans and families, please come use our lakes but do not abuse us.

And in essence, that is my testimony, Mr. Chairman.

Mr. TAUZIN. Very good. Thank you, Mr. West.

We will now hear from——

Mr. CLEMENT. Mr. Chairman, before we go on, I just want to congratulate Representative West on the courage and foresight and follow-through to get this new law—or get this bill enacted into law because any time you introduce legislation, it is not easy to carry forward with it and get it enacted into law. He has done an outstanding job and the State is appreciative of what you did.

Mr. WEST. Thank you, sir.

Mr. TAUZIN. Thank you, Bob. And if I can echo that. We have heard that 11 of the 22 States have passed it, which means that only half have been successful so far, and that is a credit indeed to your legislature.

We will now hear from Mr. George Stewart, Jr., Director, Government Affairs, National Association of State Boating Law Administrators. Mr. Stewart.

STATEMENT OF GEORGE W. STEWART, JR., DIRECTOR, GOVERNMENT AFFAIRS, NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

Mr. STEWART. Mr. Chairman, fiscal 1989 was indeed a banner year for boating safety and I think you mentioned earlier the boating safety account was re-authorized for five years, $60 million the first two years and then $70 million the next three years. The States and the Coast Guard last year did receive full appropriation of the authorized level. This major accomplishment in the second session of the 100th Congress is well recognized and appreciated and it is noteworthy that this legislation did initiate in this Subcommittee and received the unanimous support of the full Merchant Marine Committee and the Congress.

We were needless to say optimistic that the administration and the States would band together in a joint effort to seek full appropriation as authorized for fiscal 1990 and beyond. Not so, as you also mentioned.

The line item for boating safety in the Coast Guard budget, as you mentioned earlier, $45 million with the Coast Guard getting $30 million and the States $15 million. Our association is obviously perplexed that an effort is being made to reduce the States' share of these user fee funds. These funds are derived from the tax boaters pay on their marine fuel used in motor boats. It is a user fee, not general fund revenue, paid by boaters, and we feel very strongly that these funds should be returned to the States and the Coast Guard as provided for in the law to help us support boating safety efforts. And to do otherwise we think would not be in keeping with the user fee concept.

The supporters of Wallop-Breaux funding visualized, we think, that the Federal funds derived from the user fee paid by boaters, would go far in reducing Federal involvement, thereby shifting to the States the lead role in boating safety law enforcement and boating safety education. Our association welcomed this approach,

feeling that it would allow the Coast Guard to focus on many other higher priority assignments placed on them by the Congress. We feel the States are meeting these high expectations and that the State program is one that Congress can be proud of.

We think it is especially noteworthy that the States have willingly assumed the major share of what is logically and statutorily a joint responsibility. The State share of matching funds has steadily increased from $16,800,000 in 1972 to $120 million in 1989. In 1981 the States willingly picked up the slack after removal of the Coast Guard's boating safety detachment team with a direct savings of $30 million per year to the Coast Guard. We feel the States have shown credibility and consistency in resources to reach the boating public.

The States have concentrated on establishing an administrative infrastructure, purchase equipment and promote the education and enforcement techniques to stimulate increased boating awareness and thereby decrease accidents and fatalities. We believe increased State effort should result in savings to the Federal Government rather than inordinate additional costs which would emanate from State curtailment should these funds be decreased.

The major problem we have is dealing with the uncertainty over Federal funding year to year. It makes it difficult to prudently budget for long-term commitments to program improvements with any certainty. For example, if the fiscal 1990 appropriations are reduced 50 percent, the States have the choice of again biting the bullet and absorbing this loss of Trust Fund monies or cut program services, and we think it will obviously be the latter.

Our Association values the close working relationship we have with the Coast Guard, we feel we complement each other in our boating safety efforts. This is important, we think, since the waters we operate on are generally joint jurisdictional. Additionally we are satisfied with the manner in which the Coast Guard administers the Trust Fund monies to the States. Our principal difference each year during the authorization/appropriation process, when the administration wants to reduce the States share of Trust Fund monies. We obviously take this as an affront, since it is widely known that the States are indeed taking the lead role in boating safety.

In summary, we are proud of the States' use and effectiveness of the Federal boat safety funding and feel that our waterway patrols are highly visible on our nation's waterways. We have many times received praise from the U.S. Coast Guard, industry and the various boating organizations as well as the boating public we serve. To keep the momentum, we ask the continued support of this Subcommittee for $60 million authorization/appropriation for fiscal 1990 and that it be split 50-50 between the States and the U.S. Coast Guard, the same as we received in fiscal 1989.

That concludes my statement.

Mr. TAUZIN. Thank you, Mr. Stewart, I just point out you are preaching to the choir here.

Mr. STEWART. Yes, sir, I know that.

Mr. TAUZIN. We will now turn to Colonel Donald Ellingsen, who is the Director of the Florida Marine Patrol.

[The statement of Mr. Stewart can be found at end of hearing.]

STATEMENT OF COLONEL DONALD N. ELLINGSEN, DIRECTOR, FLORIDA MARINE PATROL

Colonel ELLINGSEN. Mr. Chairman, I am here today wearing three hats. I am Director of the Florida Marine Patrol and as such I am responsible for the safety and welfare of Florida citizens and their guests while using our waters. I am a member of the National Boating Safety Advisory Council to the coast Guard and Chairman of their Boating Accident Reporting Committee. I am also an active member of the Boating Accident Investigation, Reporting and Analysis Committee to NASBLA. As you can see, I am very interested in the area of boating accidents and I can tell you that it is a very problem area to marine law enforcement. We have a void in the area of our ability to professionally and adequately investigate boating accidents.

I testified before this Committee in 1983, and brought this problem forward. NASBLA also passed a resolution requesting the Coast Guard do a grants program to study and develop an accident investigation program. The Coast Guard did do that grant with Underwriter's Laboratories. Over the next three years, Underwriters developed an Accident Investigator's Manual late in 1986.

In 1987 the BAIRAC Committee worked with the Coast Guard and Underwriters Laboratories in setting up a series of boating accident investigator seminars. We put on eight in 1988. We learned a lot, we trained about 250 officers. This year we will continue the program, we have improved it. We will train another approximately 250 officers.

What we have realized is that we need more information. Although we are pleased that boating accident fatalities are down in the ratio per 100,000 boats, we are seeing a sharp increase in the trauma type injuries associated with collisions. The overwhelming majority of boating accidents are collisions.

In my State, our waterways are becoming congested, we are seeing the performance type craft increasing. Both our projections and those of the marine industry indicate that we will probably double the number of boats over the next decade, by the year 2000. A large percent of that increase will be performance watercraft. Our officers call them floating rockets, the jet ski type craft. They are problems to us.

I would like to share with you what I mean by a boating accident. Historically a boating accident has been a fall overboard or a fire and explosion. That still represents a lot of the fatalities, but the serious injuries are coming from the high speed collisions and they are very difficult to investigate for a law enforcement officer.

Over the past year in Florida, we have dedicated 18 of our officers and our Game and Fish Commission has dedicated 10 officers to nothing but boating accident investigation. That is these officers' primary function. That is 28 officers in one State. We do consider it a problem and we are trying to do something about it.

When we talk about a boating accident—and these slides I am going to share with you will depict some very graphic scenes. If you have a problem with that, you might want to look away when we get to them, I want to caution you. We are talking about collisions

at a high rate of speed, in some cases 60 to in excess of 100 miles an hour.

This particular boat collided with another boat, the cut up towards the bow is a result of the rescue personnel using a saw to extract the operator that was smashed up in the bow and killed. To get to the bow of course he went through this mess here. This particular accident was on the intracoastal waterway in North Miami. This go-fast boat struck the back of this excursion boat. It was unusual in that nobody was injured, but it is the type accident we are seeing that is alarming to us.

This particular 37-foot go-fast stuck its bow through the second story of this condo in Pompano Beach.

What I have shown you so far is what you see in the newspaper or on the television nightly news, you know, the picture of the smashed boat. It is what our officers call the package, it is what the boating accident comes in as far as they are concerned. When they get to the scene, they have to open that package up and what they find is not very nice.

This particular boat we suspect was involved in the striking of a swimmer right off shore Pompano Beach. We seized the boat, examined it, we were unable to prove anything. It has got a propeller called a cleaver. They are very heavy, tapered blades, the name comes from a meat cleaver and that is exactly what it does. In this particular case it ran over this gentleman and killed him while he was swimming.

This particular seawall is just off the ICW in North Miami. A boat struck that wall at night. Now that is concrete, you can imagine the impact it took to do that damage. This is the boat. There was a young couple from Ohio down there on their honeymoon. The operator was drunk, he killed his wife.

This particular accident was a very difficult one for us. This 23-foot inboard/outboard ran over another boat. It hit it almost head-on, hit a 16-foot boat, this particular boat right here, in a canal that was an idle speed zone. Killed the operator of this boat. When we investigated it, of course the officers had no doubt that the 23-foot boat had been running at planing speed and ran up over it. When we got into court, the defense attorney said well no, their operator had been going at idle speed and this boat was at high speed and he ran under the other one. This is a complex problem that if you do not have the data base behind you to prove what we are talking about, you end up losing the cases.

This gentleman was struck with the bow of the other boat and killed instantly.

This is another case here, two boats left a lounge on the intracoastal waterway in north Fort Lauderdale called Shooters. They were headed south late at night, kind of an appropriate name for this boat. The brother of the—the two brothers, one was on the *Aquaholic*, the other brother was on the other boat. The fellow operating the other boat ran up over the back of the *Aquaholic* and killed his brother.

This particular go-fast boat here again ran up over the back of this boat, again late at night, double fatality.

This particular lady was sitting in the back of this boat northbound in the intracoastal waterway in Miami, a boat came up from

behind, actually took the top of her head off. Her parents are sitting in that boat, her husband is in it—very tragic thing.

And that is I think about enough of what I have talked about here. But I think what I have pointed out to you is the fact that we have some very serious type of accidents. Now Florida is a trend-setter. Sometimes we like to be a trend-setter, sometimes we do not. But I think that the rest of the nation can look forward to this type of accident.

We have had a program underway in Florida for the last two years dealing with accident reconstruction. What we have been doing is recreating some accidents to train our investigators. And what we found—last month we did the last series of them. We took a class of 28 officers and split them in groups of three and we did a series of actual accidents on the water and two-thirds of the group witnessed the accident occur. The other third was off and they would come in and they would actually reconstruct the accident and take it into the classroom and work it out. And if somebody could turn on the VCR, I have got about 45 seconds of video that I think you would enjoy seeing. You are going to see two—this is a common type of accident where a high speed boat will run up over the back of a boat. In this particular case, the propeller actually took the head off of the operator of the boat it ran over.

Mr. TAUZIN. How did you catch this on film?

Colonel ELLINGSEN. Well this was a staged accident. This is one of the ones we did in our classroom environment to train our officers. But I would like to comment—after this next one I want to tell you something very interesting that we learned here.

Again, these accidents, the boat that is doing the striking is going 25 or 26 miles an hour. So if you double that to 50 or even triple it to 75——

Look at the energy in this particular collision, I think you can feel it when they strike. We will also see this one in slow motion. Imagine being the operator of that boat that is being struck.

What we learned that really interested me here was that in the past we relied very heavily on eye-witness testimony. You know, you do not have skid marks, the boats float off or sink. The officers—and again, they are law enforcement officers that have been trained, they have been on duty for a number of years—the law enforcement officers that actually witnessed this accident all had different accounts of what happened. And when they saw the accident recreated on film in slow motion, it absolutely amazed them.

So what we are asking the Coast Guard for is a grants program to an independent research laboratory similar to Underwriters Laboratories, to do advanced accident reconstruction work, to give us the data base that we need to do this kind of work. And on a scale of 1 to 10, back in 1983 we were at about a 0 to a 1. Today we are at about a 3 level. We have got a long way to go in this area and we need your help.

Thank you.

Mr. TAUZIN. Thank you, Colonel. If we can catch our breath now, we will move on to Lieutenant Colonel Charlie Clark, the Assistant Chief of Enforcement Division and Louisiana Boating Law Administrator.

[The statement of Colonel Ellingsen can be found at end of hearing.]

STATEMENT OF LIEUTENANT COLONEL CHARLIE CLARK, ASSISTANT CHIEF OF ENFORCEMENT DIVISION AND LOUISIANA BOATING LAW ADMINISTRATOR

Colonel CLARK. Thank you, Mr. Tauzin, Chairman, Mr. Clement, I appreciate being here.

I would like to echo the statement that Mr. Stewart made on behalf of the National Association of Boating Law Administrators and we appreciate the Subcommittee's efforts in helping us get that funding. Traditionally the name of the game is funding, is where it is at right now. As Colonel Ellingsen just echoed, that kind of specialized training that exists within the nation. The States have come to life in this thing. Generally speaking this program, the Federal program, has in fact formalized boating safety in this nation in as far as the States' involvement. The States' involvement is big time.

In my particular State, my department involves 235 people in the boating safety program. Even with that and even with the specialized training that we have, and ongoing training that we have, we still live those same morbid results every weekend in boating accidents. Last year, we had 183 accidents, 61 people dead, another 69 seriously injured. And it is not something you can take down to one particular area. What you will find traditionally in law enforcement, even with the best, is that you do not cure the problem in your State, you move it around. You can attack it geographically, about 80 percent of our registered boats in the State are on trailers and if I attack it in check bay, I will move it over. Each weekend I have to re- identify my problems and chase them.

One of the things I am very proud of and would like to say here is Louisiana was one of the first to have a DUI bill in the State, .10. This year we are back in the legislature looking at a new implied consent, one which will help us out immensely. And that is going a long way. To tell you how good and how much better things can get with specialized law enforcement and education, we had—right now we have two five-man task force in DWI who travels the State. We weekly identify geographic problem areas and send those task forces. The Amite River system out of Baton Rouge, we had nine deaths in one particular year. The next year we sent our DWI team in that particular area. Not only did we not have a death, we did not even have an injury as a result of that.

But I can tell you in the outlying areas of that, that we did in fact see an increase in the number of accidents, and it is simply because we shifted the burden. What we have done from that particular aspect is we have sent all of our officers back to Louisiana State Police Training Academy, we have qualified them in the use of the Intoxilizer 5000. We have another 60 right now going through the horizontal gaze field sobriety aspects of it. We carry the RBT-3, the remote breath test, on our boats to do that kind of testing. The new horizontal gaze test is probably one of the foremost in marine activity in providing field sobriety, the involuntary

movement of the eye. After you get that program down pat, believe me it is great.

The problem with marine DWI is that if you are going to be in the rural areas, particularly in our State, you have to look and find if a guy is on an upslide or a downslide of his particular place is a 1-3 and I have got 45 minutes let us say to get him to an evidentiary machine, that is a big problem. So at the time, you literally have a drunk on the water and by the time you get him to where you can test him, you have lost him.

On the educational aspect—and I just want to comment on the highlights I hear the Committee speaking of. In the educational part, the mandatory education I hear talked here, I can promise you law enforcement education is the name of the game. If we are saying alcohol is our biggest problem, and you have to include drugs in that, where is a better place for a young person to go out and do marijuana, in the middle of a lake where he can see law enforcement coming for five miles around him. So we have to include drugs also when we say controlled substances.

But the educational aspect of boating in this country, it is going to have to be the greatest cooperative effort that we have ever put forth. It is going to have to be a cooperative effort between not only the Coast Guard, it is going to have to be between the States, the Auxiliary, the Power Squadrons, the Red Cross units, volunteer instructors who have been certified. The State's program which we put on which is a six-hour certification course, our goal this year is all seventh and eighth grade teachers within the State of Louisiana will be certified. By 1990, next year, we are going from kindergarten to sixth grade. Hopefully what will happen then is I would like to see the same program that was instilled into most of the hunter safety education programs in this country, 16 and under, born after 1973, then you will have to in fact take this mandatory course.

So those are some of the things that I see, and I would love to see it. Louisiana has something pretty unique right now. We have a task force, a State task force of education set up, and our next meeting will be the 23rd, which industry, marine dealers, educators, law enforcement officials, legislators will sit around a round table and realize that we do have a problem in the State in boating, identify what the problem is, go at solving it by whatever means. If that happens to be operator license, well maybe that is just the way it has to be. But we always get blamed for trying to regulate the fun out of boating. All we are trying to do is provide equal opportunity for everybody.

I think our boating public deserves a basic expectation of a given level of knowledge and protection on our waters, and that is exactly what we are trying to do.

I thank you all very much and we appreciate your concern.

Mr. TAUZIN. Thank you, Colonel.

Finally on this panel, Mr. Ed Carter, Assistant Regional Manager of the Tennessee Wildlife Resources Agency.

[The statement of Colonel Clark can be found at end of hearing.]

STATEMENT OF ED CARTER, ASSISTANT REGIONAL MANAGER, TENNESSEE WILDLIFE RESOURCES AGENCY

Mr. CARTER. Thank you, Mr. Chairman and thank you, Congressman Clement for bringing the Committee here, we appreciate that.

The Tennessee Wildlife Resources Agency is the sole State agency that has been charged with recreational boating safety in our State. I am going to shorten my comments I suppose from what I had planned, in the interest of maybe going on to questions and answers, but essentially let me tell you a little bit about what we are doing and some of the funding that we have, some of the programs we have in place and where I think we will go if we lose those funds.

Particularly I guess to start with, since 1965 we have been that State agency. We have 155 people that we employ in the enforcement part of our agency who are also augmented by people who do not routinely work boating but on peak weekends and so forth, supplement that staff of on-the-water people. We have about 160 access areas that we maintain and a program of building those each year, so that people, as Charlie said, they need an opportunity to be there and, of course, they have to have access to water to get it. And that is one way that we try to provide that.

We have tried to utilize what we have. Statewide, as you mentioned, we have an enormous resource in terms of water. We have 19,000 miles of stream, 28 major reservoirs, on and on. And the people in Tennessee recognize that, and we have tried to provide a safe atmosphere for them to be in, but at the same time since about 1978, 343 people in Tennessee have died because of boating accidents. That is tragic enough. But I guess if there is a bright side to that, what I would look at is that during that same time span, for about the last ten, going on 11 years now, we have maintained a decreasing fatality rate. Even though we have had that many accidents and that many lives lost, the fatality rate has essentially gone down on a declining scale each year until the past year, we recorded the lowest number of fatalities that we have had in the last 24 years.

I guess the other bright spot to that, in that same time span we have increased by 41,000 boats, and as a matter of fact, in Tennessee since this last year at this time we have increased about 10,000 or about 30 boats a day are added—new boats are added to our registration file.

And in areas like Percy Priest and Old Hickory, the metropolitan areas, Chattanooga and so forth, it is obviously very concentrated, a lot of people in a small area, and that seems to be our biggest problem.

What we have tried to attack it from, as some of the others have alluded to, is both enforcement and education. The education, a few years ago, back in the last 1970s, our boating program went into a severe crunch. At that time we had formal education courses throughout the State, especially in schools where students were taught by in- classroom teachers in curriculums in everything from English to driver's education, and they worked boating safety in. It worked very well, even on-the-water exercises. We funded week-long workshops for school teachers to go to to be a part of that.

Since that time, since about 1979, we went through a real budget crunch. The complete education program had to be scrapped, our access area program was totally disbanded and our on-the-water time for enforcement officers was cut by a third. We are back now to the spot where I think we were then. We have now our education program ready to go again. We have both home study courses and formal education classes that are already in place ready for the public to take advantage of, as long as we have funding for our people to help augment those particular facilities.

There has been an interesting new twist, a computer- based program. Everybody likes Pac Man, well that kind of thing has been invented now that goes along with boating. It challenges the youngsters to do that. We hope to implement that in all seventh grade classes sometime this year, and I think that will work very well.

We have a pretty good cooperation, or I think excellent cooperation really, with all the different entities in Tennessee. We have somewhat of a unique problem than the other States in that we have so many States surrounding us, and almost all of them are touched by water, reciprocal agreements and reciprocity among everything, it could be a problem but it has not been.

The Corps of Engineers, the Tennessee Valley Authority, the Coast Guard Auxiliary, we have a real working relationship with those and I think that is the only way we have been able to keep everything afloat, for lack of a better word I suppose.

The people in Tennessee I think are now more interested in boating than they have been in a long time, and as Representative West told you awhile ago, there is a lot of interest that was sparked by the group of citizens that was put together on committee. They have given us a pretty clear outline of where they want us to go and some real push, and a lot of that was in the area of mandatory education.

We have not tried to implement that yet because to be honest with you, we do not think we can handle it. We do not have the people or the funds right now to go into that kind of program, especially, of course, if funding is decreased, then we for sure would not have that. Those people got together, they gave us some pretty clear direction, especially legislative-wise. Representative West and some other members at the local legislature have really gone out of their way, and as you might expect, it was not an easy road to begin with for him to pass that legislation, but he did do that. It is in law now and we have already made a few cases on that new law and it is working very well.

So to end up my remarks, I suppose what I would like to say is that we have been through a similar situation; we had a very active boating program, a very good boating program I thought back in the late 1970s. We went through a crunch and now we are back up to that level again and I certainly do not want to ride a roller coaster or have the people in Tennessee to do that.

So again, that is where I think we are, where I hope we do not go. I think we have got a good program in place and I hope it continues. We appreciate your support and thank you for coming.

Mr. TAUZIN. Thank you, Mr. Carter. We will take a brief break now. The schedule calls for us to address answers to the press who are here today, and I want to give them a chance to particularly

interview Congressman Clement. Then, if you do not mind, when we reassemble, we will do some Q and A with you for a little while before we break for lunch. Thank you very much, gentlemen. If you will just stand by, we will call you back again.

[The statement of Mr. Carter can be found at end of hearing.]

Mr. TAUZIN. I think I will go through some Q and A for awhile.

Gentlemen, I think Bob is still answering questions outside, but I particularly wanted to get a response from you to a question I asked the Admiral earlier, that maybe you have better information on.

What has been the response of the courts in enforcing the new DUI or DWI statutes for boating?

Colonel ELLINGSEN. Mr. Chairman, in Florida, we have had fairly good response from the courts. We passed a comprehensive DUI law in 1984. The problem we encountered was the implied consent provision of the law. Our law in boats and cars is identical, except if you refuse to submit in a car, you lose your privilege of operating the vehicle for a year minimum. In the boat, there was no penalty. And what we encountered was when the individual refused to submit to chemical testing, even though we may have had a good case on physical evidence, the prosecutors were reluctant to prosecute. Maybe they were lazy, maybe they just did not feel comfortable with it. As a result our officers became complacent and they said well why charge them if we are not going to get it into court.

So last year, we passed a new provision which assesses a $500 civil penalty against anybody refusing to submit to testing. Our law—if you have an accident involving death or bodily injury, you lose the right to refuse and we just draw blood. But in the other cases, the majority of them, the individual can refuse. Now if you refuse to submit, the officer files a form with the clerk of court. The clerk will send the individual a bill for $500. He has three options. One, he can pay the $500 penalty; two, he can ask for a hearing before a county court judge. Now this is a civil hearing and the judge is looking at two issues. Number one, did the officer have probable cause to make the arrest, and number two, did the individual refuse to submit—simple. That is a separate case, separate hearing from the criminal case on the DUI. That is going to go its track.

Mr. TAUZIN. Has that been tested in the courts?

Colonel ELLINGSEN. We have had it in court for six months but it has not been——

Mr. TAUZIN. The implied consent rule has always been grounded constitutionally upon the notion that a privilege to drive implies that you surrender your right not to be tested. But since you do not have a license to operate a motor boat and since your law only says that if you do not in effect waive your rights to invasion of your body through a search like a blood test, that you are going to have to pay a fine. Is that constitutional?

Colonel ELLINGSEN. We believe it is. It is a civil penalty and if the individual does not pay the civil penalty, he loses his privilege of operating a boat and then it becomes a criminal offense to operate.

Mr. TAUZIN. So that an individual can choose not to pay the fine, he simply loses his privilege of operating a boat.

Colonel ELLINGSEN. Correct.

Mr. TAUZIN. All right.

Colonel ELLINGSEN. Then it becomes criminal. Two States have this law; Florida and Minnesota. Our attorney general—well I drafted our bill and I realized the problems that I would encounter in a legislative committee with some of the attorneys on those committees——

Mr. TAUZIN. Sure.

Colonel ELLINGSEN. ——so I went to the attorney general and asked for his advice. They reviewed it, he said not only is it constitutional, we think it is good law and I am going to support it. So I took him with me to the Committee meetings. He stood up and said that he believed it was constitutional and he would defend it in court.

Mr. TAUZIN. You do not have an attorney general like we had in Louisiana though. Earl Long used to say about his attorney general, you want to hide something from the attorney general, put it in a law book.

[Laughter.]

Colonel ELLINGSEN. No, we have a very good attorney general and we are very proud of him.

But since—the law went into effect last October and the officers are back making cases and so far we have not had any problem with it. And I think that may be the way to go, short of an operator's license as well.

Mr. TAUZIN. I see.

Gentlemen, would you respond, the general question is how is enforcement in the courts proceeding in cases you have witnessed?

Mr. WEST. I might just mention, in Tennessee before we had the new law which is relatively new, about two months now at the most, we were under a reckless operation statute and pretty much we got good court decisions throughout the State with a few exceptions in some counties because of the way the law was written. But overall it was good then, and I anticipate it will be even better now because as we mentioned earlier, it really correlates with our DUI law and it has been doing well statewide.

Mr. TAUZIN. You do not have in Tennessee yet a suspension of operating privileges?

Mr. WEST. Yes, we do.

Mr. TAUZIN. Oh, you do have that now?

Mr. WEST. Under new law, if a person refuses testing, there is a six-month suspension of their operating privileges, whether or not they are convicted under the law.

Mr. TAUZIN. Gotcha. Colonel?

Colonel CLARK. Mr. Chairman, our new law will track that same civil mechanism, and hopefully it is of constitutional muster because we are trying the same aspect of it.

It is an educational process in this DWI aspect, it is brand new, it is recreation. As we come along toward the courts in the beginning, would not go for it. Ours track the same bill as we have for highway DUI and it is very stiff, and especially in the new one where in the second offense you can spend 60 days in jail mandatory. And it gets to be a very hectic situation. But what we have on the books is we have two aspects of it, we have got the DWI writ-

ten in on 661, which is the highway aspect which includes motor boats, and we also have a general intoxication law. Both of them carry $500 penalties, one of them is only enacted with implied consent with an accident that involves death or injury. The new one, the new implied consent bill we are going after will in fact come back and apply the civil penalty across the board. But MADD, as you talked about on the highways, has jumped in the waterways. They are there—they are there big time.

Mr. TAUZIN. Good.

Colonel CLARK. If you want to bring attention to a program, all you have to do is find a quarter and it happens.

Mr. TAUZIN. Before you do that, your law does not cover careless boaters who go frog gigging at night, does it?

Colonel CLARK. No, we have a different way of handling those guys. They are after frogs and potasade and we have to be in those same areas.

Mr. TAUZIN. Just for the benefit of the audience, the witness, Colonel Clark, was part of the rescue team that rescued this Congressman from a boating incident five years ago.

Mr. CLEMENT. Are these Cajun frogs?

Mr. TAUZIN. Those are very tasty Cajun frogs, very spicy.

You wanted to add something?

Colonel ELLINGSEN. I wanted to add that in our State we have a group now called BADD, Boaters Against Drunk Drivers and our Students Against Drunk Drivers have taken up boating also. So it is very popular and catching on.

Mr. TAUZIN. Good, glad to hear it.

Mr. Stewart, did you want to add something?

Mr. STEWART. I think they have given a good sampling of it.

Mr. TAUZIN. Bob, do you want to ask something?

Mr. CLEMENT. Well I wanted to ask—I guess I will start with Mr. Stewart first. Your association adopted national guidelines for mandatory boat safety education. How many States have such mandatory education programs in place?

Mr. STEWART. Do any of the other BLAs—I am not sure how many. A number of them are proceeding in that direction. It has only been I think in the second year. Do either of you know? I am not sure how many.

Again, it was guidelines to the States encouraging them to enact it. I know Maryland for one has, and I know a number of others that have, but the total number I do not know. We could provide that for the record if you would like.

Mr. CLEMENT. That would be fine, if you would provide that.

Is the Association involved in drafting model regulations or legislation governing the use of personal watercraft?

Mr. STEWART. They have a committee studying that, but I know of no proposed model act.

Colonel ELLINGSEN. Mr. Clement, the National Boating Safety Advisory Council has a committee studying that. I am a member of that committee and we had our first meeting last week. It is kind of preliminary right now. We have a bill before the Florida legislature that will set some minimum standards. It has the support of the personal watercraft industry association and I expect it will pass. Basically it will require that all persons wear a PFD, it will

prohibit operation at night, it will prohibit operation in close proximity to other boats where the view is obstructed. One of the big problems we have is jumping wakes and getting in front of a boat coming in the other direction. It will require the wearing of kill switches if the device is so equipped. It will prohibit anyone under 14 years of age from operating a craft and it will prohibit a rental agency from renting a craft to anyone under 16 years of age. And it may not go far enough. We are also looking at zoning in certain areas in Florida, but that is a local government issue rather than a State or Federal.

Mr. CLEMENT. I also wanted to ask you what conclusions have you drawn from accident investigations about the major causes of boating collisions? I think we probably have touched on that, but is it driver inattention, speeding, intoxication or impairment or inexperience?

Colonel ELLINGSEN. I would say three things; speed, alcohol and inattention. Any one of those or a combination thereof are generally present in a serious boating accident. Something else in the area of boating accidents in personal watercraft, we have started looking at it very closely. We are gong to examine personal watercraft accidents this year and I am going to report back to the BSAC Committee this fall, but in the first three months in 1989 in our Miami District, we investigated 105 boating accidents, 12 of which were personal watercraft. Now personal watercraft represent one percent of the total boats and in that particular case 11 percent of the accidents, three of those were fatal.

Mr. CLEMENT. What about collisions pertaining to equipment malfunction or defect?

Colonel ELLINGSEN. Well we still see a little bit of that but I think the industry has made great strides over the past 18 years since the passage of the Federal Boat Safety Act of 1971. The fire and explosion type accident is reduced a lot, we see very few of the type fires and explosions we used to see. I think the equipment itself is far safer than it every has been. The majority, overwhelming majority of the accidents are collisions and they are caused by operator error.

Mr. CLEMENT. Mr. Carter, how much Federal boat safety account money does the agency receive for its programs?

Mr. CARTER. We are at about $470,000 a year now.

Mr. CLEMENT. Do you favor banning the consumption of alcoholic beverages on Tennessee's lakes, rivers and streams?

Mr. CARTER. I do not think that is probably a realistic thing to even try to do. It is—I think it is probably easier to attack those people who are operating, as we have done in vehicles, and that is what we have done. I believe it will be more successful and better accepted.

Mr. CLEMENT. How much drug use have you found among boaters?

Mr. CARTER. It has been a difficult thing to detect. Under our old system of trying to prosecute that, getting samples of blood or any other testing, chemical procedure, was difficult to do. So we really do not have a good handle on exactly how many. A feeling is that a lot of the people who register very low on our blood alcohol and on

our breathalyzers, but are obviously very impaired, were using a substance other than alcohol.

Mr. CLEMENT. But you would say the vast majority of cases would be alcohol versus controlled drugs?

Mr. CARTER. I am sure that that is the highest percentage.

Mr. CLEMENT. What about this citizens task force, can you tell me about that?

Mr. CARTER. It was initiated at the request of our Commission, which is the governing body of our agency. They asked the Tennessee Conservation League, which is an association of sportsmen clubs, garden clubs, anybody with an interest in the outdoors, to put the thing together. They drew people from all over the State geographically and also from different interests—sail boaters, power boaters, dock operators, marine dealers—and convened them and asked them to look at our boating program in total. That is what they did over a period of about four to five months in several meetings. Out of that committee came the legislative needs that they thought we should have and also some requests for what they thought we should do in the future.

Mr. CLEMENT. So it has worked extremely well for you.

Mr. CARTER. It has been very successful.

Mr. CLEMENT. Thank you.

Mr. TAUZIN. Thank you, Bob. A couple of quick questions before you leave.

One, your reaction, gentlemen, to mandatory personal flotation devices.

Mr. CARTER. I might start—are you referring again to the younger people or in total?

Mr. TAUZIN. Let us go top to bottom, younger first, older second.

Mr. CARTER. In our last National Association meeting, the under 12 operator, 12 and under, was addressed. I guess I could have gone on record as speaking against that, but probably not because I was not in favor—it was not that I was not in favor of that particular regulation, I did not think that was our big problem area. As a matter of fact, in patrolling the waterways if I see any one group of people wearing flotation devices, it usually is the younger people because their parents feel that they need to wear it but maybe not the adults. So I thought that we should probably be attacking the different groups. The ones that we see statistically that are involved in accidents are generally in the 30 year old group. And I thought maybe either through education or through regulation if we had to, that is the area that we should look at. I did not think it was probably realistic to mandate wearing of flotation devices yet because I did not think we would probably achieve that and secondly because it is a difficult regulation to write because so many types of boats are involved, whether they are cruising, whether they are skiing, is it enclosed cabin, do they have to wear them inside houseboats or outside houseboats? It was a difficult thing to address, and we looked at that. There is some support for doing it.

The biggest part that we see in flotation devices, I get more requests to change the regulation as it is now for people in boats under 16 in length do not have to have wearable flotation devices, and most people do not understand that. They say it seems like the

wearable flotation devices should be in the lower length boats and the larger boats not necessarily.

Mr. TAUZIN. What did your Association do, how did you come down on it?

Mr. CARTER. We talked about it a lot. We did not wind up with any regulations that went anywhere. We passed a resolution at the National Association saying that was a problem and asking the Coast Guard to address it as well as the individual States and the resolution actually called for each State to try to get their legislatures to impose regulations for people 12 and under to wear personal flotation devices.

Mr. TAUZIN. Other comments?

Colonel CLARK. Mr. Chairman, as you know, the State of Louisiana does have a law that says 12 and under must have a PFD on while the boat is underway and that exists on boats less than 26 feet in length. And I can tell you in the last four years one child that we lost and that individual did have a PFD on and succumbed to hyperthermia.

I will give you the perfect example of that. Last year after the Popeye 500 Offshore Race, we were summoned to a call. Upon reaching the scene approximately 15 minutes later, there were four individuals in a boat, three males between the ages of 22 and 31 and a child eight years old. The child had a PFD on. At the scene we found the child floating and we lost the three men on board. So we think it is a pretty important law and it is one way that we like to think that we are protecting our children, of those individuals who can become irresponsible out there. And that is not to say——

Mr. TAUZIN. Should we extend it to above 12?

Colonel CLARK. Yes, in my personal viewpoint, number one, we should get rid of the Type 4 PFD as a primary boat under 16 foot in length, primary PFD on that particular boat. Number two, I would love to see in the country at some future date and time—if I can tell you that I tracked 25 deaths three years ago and 19 of those were in fact wet lung drownings, and I can tell you whether that individual was drunk or not he would have saved his life had he been wearing a PFD. So we can look at that and we can tell you that if we can control alcohol on the water and we can make people float in the water, we will save a lot of people.

Mr. TAUZIN. Are people ready to accept that kind of a mandate, in your opinion?

Colonel CLARK. Well it is the old seatbelt thing. Here we go. The lack of responsibility might be the birth of regulation, and maybe it is something we really need to sit down and take a good hard look at. We are dealing with recreation, you know, you have to remember every foot in the door we get pushed back a little bit.

Mr. TAUZIN. Sure. Colonel.

Colonel ELLINGSEN. Mr. Chairman, we could reduce boating accident fatalities by somewhere in the neighborhood of 70 to 80 percent if we had a requirement that people wear—if people did wear PFDs. BSAC just passed a resolution to the Coast Guard recommending they do away with the Type 4 device for small boats, as Colonel Clark has recommended. We know people are not ready to accept that.

Mr. CLEMENT. Yeah, you know, they are out there for recreation. If you take that away from them—you know, I am not sure they would enjoy being out on the water. I think adults have got to be accountable for their own actions. But we have got a real obligation and responsibility there to protect our young people, period. But after we get to a certain age, we have got to be somewhat accountable for our own actions; but we have got to have penalties too for lack of conduct and lack of responsibility on the water just like we have on the highways, or we try to.

Mr. TAUZIN. It is the old helmet law again. And they are pretty tough to settle because we are dealing with an adult population and as Bob points out, has a very fixed view of the way they ought to be able to recreate on the water.

What about mandatory licensing to operate? Any of you have a feeling on that? That is a big issue now.

Colonel CLARK. Well you know, you look at that. And maybe mandatory education is mandatory licensing—how do you do it, do you go out and just pass them out and say I believe that you are in fact a prudent boat operator and here you go and I will see you next week if you get drunk.

Mr. TAUZIN. Good luck.

Colonel CLARK. You know, it is one of those things where here we are again. What are we going to impose with it, what are we going to ask by doing it. And we again are regulating.

Mr. TAUZIN. Yes.

Colonel ELLINGSEN. We have addressed that for the last three years in our legislature, we have had bills filed. We——

Mr. TAUZIN. What has happened to it every year?

Colonel ELLINGSEN. We have estimated that we have three and a half to four million people operating boats in our waters today. To do a mandatory education program—it is undo-able, we could not do it.

Mr. TAUZIN. You just do not have the resources, right?

Colonel ELLINGSEN. The problem is, in the year 2000 we are going to have seven to eight million people. We need to look at a way now to train that new group coming in and I think the Maryland approach is a good approach. That is taking everybody born after a certain date and requiring that they go through an education program. Our State legislature is considering such a bill now. Whether it will pass or not, I do not know.

Mr. TAUZIN. Is that the general feeling, that we need to concentrate on the younger crowd coming up?

Colonel ELLINGSEN. Right.

Mr. TAUZIN. We have got an older crowd out there operating that are not too anxious or willing to be mandated in much of a program, but younger people can and should be educated.

Colonel CLARK. You call on law enforcement first to sustain it and hopefully you get a wave of self-compliance in the future.

Mr. TAUZIN. A wave of self-compliance.

Mr. CLEMENT. One last question I wanted to ask was on pollution of our waters. I mean it just tears me up, horrifies me when I see people throwing trash in our water. What about the penalties there and what can we do about it?

Mr. CARTER. We address it a couple of different ways here. There are water quality standards, depending on the kinds of things that are put into the water. There are also litter laws and the State legislature has passed pretty healthy litter laws and applied them especially to water situations. Penalties in Tennessee for littering is not only a healthy fine, up to $500, but also a suspension of a person's driver's license, which puts a different connotation on it.

Colonel CLARK. In Louisiana, we have a fresh new approach to littering the waters. The new law says that any law enforcement agency enforcing it and actually writing a citation receive $25.00 back to that agency. So it is taking trash out of the water.

Mr. TAUZIN. Do you remember Alice's Restaurant. The guy was drafted because he was a litterer, littering was made to look trivial and funny. As Bob pointed out, Americans have become much more concerned about it now. I am pleased to see that you are as well.

One final thing. Would it be helpful to encourage the final 11 States in this area and the other States of the nation to adopt laws against boating while intoxicated, if we condition the receipt of Federal funds upon enactment of such statutes? Would you recommend that, or not?

Colonel CLARK. I would not recommend that. I hate holding anybody hostage. I think that the individuals in that State would in fact be in there swinging and I do not think you can hold those individuals for maybe a little lack of knowledge and legislature or something like that. So I do not think—you know the people that are going to be penalized for it and receive all the negative input are not going to be the ones holding out.

Mr. TAUZIN. Colonel?

Colonel ELLINGSEN. I agree with that. I was in Idaho last week and the Boating Law Administrator there had worked very hard to get a DUI law through the legislature and he failed. If he lost half of his Federal funds or his Federal funds, their whole boating safety program would fold. And although I would encourage the States to do it, I do not know that causing their existing programs to fold would be a wise action.

Mr. TAUZIN. I think that is good advice.

Gentlemen, thank you very much. Bob, do you have anything else?

Mr. CLEMENT. No. Thank you all very much.

Colonel CLARK. I would like to say one thing before we get out of here.

Mr. TAUZIN. Sure.

Colonel CLARK. I would really like to tell you, you know, we often hear about so much fiber tearing and all between the States and the United States Coast Guard. In the State of Louisiana, we have the greatest cooperative effort with the United States Coast Guard that I can imagine, and I would hate for anyone to think that we sit here representing ourselves. We do not, we represent any resource that is dedicated to saving human lives.

Colonel ELLINGSEN. I agree and ditto that, in the Seventh and Eighth Districts that we work with, we have excellent rapport and work with them day in and day out.

Mr. TAUZIN. Everybody loves the Coast Guard, everywhere I go. I just wish the would love them enough in Washington, D.C. Thank you, gentlemen.

We will recess for lunch.

[Whereupon, at 12:24 p.m., the Subcommittee recessed, to reconvene at 1:25 p.m., the same day.]

Afternoon Session

Mr. TAUZIN. The hearing will please come back to order. We will start with panel number three now, which is composed of two panelists; Mike Sciulla, Vice President of Boat/U.S., and Barry Labow, Past President of National Boating Federation.

Gentlemen, we have your written statements again and we welcome you to this field hearing and we would invite a summary of your testimony please.

Mike, would you start?

STATEMENT OF MICHAEL G. SCIULLA, VICE PRESIDENT, BOAT/U.S.

Mr. SCIULLA. Thank you. Good afternoon, Mr. Chairman. It is indeed a pleasure for me to attend this hearing and have the opportunity to speak directly to the Committee. As one famous comedian once said, I think I would rather be in Nashville, rather than 1334 Longworth Building.

Mr. TAUZIN. Tell me.

Mr. SCIULLA. I am Vice President of BOAT/U.S. an organization of 300,000 recreational boat owners.

I am here today to talk about essentially two issues of concern to our association. The first is legislation passed by Congress to protect boat owners from unsafe and defective boats, which we believe is not being properly administered by the Coast Guard.

Section 15 of the Federal Boat Safety Act of 1971 gave the Coast Guard the authority to require manufacturers to repair and/or replace defective boats if they create a substantial risk of personal injury to the public.

Mr. Chairman, in the near 20 years since passage of the Federal Boat Safety Act, it has been our experience that the Coast Guard has failed to make adequate and independent investigations of legitimate consumer complaints. It continually seeks to put the burden of proof on the boating consumer and increasingly accepts at face value, brief self- serving statements from manufacturers regarding these complaints.

For example, despite reports of over 200 cases of hull cracks on Chris Craft boats provided by BOAT/U.S. the Coast Guard concluded, without looking at a single boat, that there was "no common thread" linking all the cases and declared there to be no defect. This decision was based in part on assurances given by Chris Craft officials.

Murray Chris Craft soon went bankrupt due, in part, to mismanagement. Shortly after a change in its management, Chris Craft admitted to structural inadequacies in at least two models and recalled most of its 1987 and 1988 25-foot Amerosports. The new corporate owners found it necessary to entirely overhaul quality control procedures.

In another case, the Coast Guard initially declared a recall on a 1986 sport fisherman because of engine bed failures. The recall was later dropped when the company told the Coast Guard the failures were due to owner negligence. The Coast Guard declined to send an inspector to the boat and closed the case without taking into account reports by marine surveyors and a naval architect describing structural inadequacies and deficiencies.

The Coast Guard also took no action when it was given a report that an entire family was sprayed with glass shards when the windshield of their 1985 Baja Boats Sport 220 shattered in its frame. The Coast Guard determined that there was "no substantial risk of personal injury".

BOAT/U.S. has also turned over to the Coast Guard a number of cases, including several reports of boat fires caused by exhaust system failures.

Several years ago, Mr. Chairman, a member of the Coast Guard's Product Assurance Branch told us not to expect any defect recall unless a boat explodes, catches fire or someone gets killed. This narrow definition of what constitutes a substantial risk of personal injury is not only callous, but effectively disenfranchises the consumer of his rightful remedy—a defect recall—which requires the manufacturer to repair or replace the boat at its expense.

Mr. Chairman, the Coast Guard has failed to abide by the legislative history of the 1971 Act and the intent of Congress. When the issue of defect recalls was first included in House Report 91-1611 in 1970, the manufacturer was only required to notify the consumer of a defect and suggest ways that it could be corrected. That was the sum and total substance of the first report on this bill. But this approach was later rejected in 1971 when the Senate Commerce Committee issued its final report regarding the fact that the bill as introduced did not require the manufacturer to correct a defect at its expense. The report States, "The Committee felt that this was a serious omission since equity clearly requires that the manufacturer, rather than the innocent purchaser, bear this cost."

Today, Mr. Chairman, the consumer, not the manufacturer, is often left bearing the cost for a defective boat, thanks to a Coast Guard which has clearly forgotten what Congress intended.

It is obvious to us, Mr. Chairman, that the Coast Guard needs more explicit direction from Congress regarding the consumer protection provisions of the Federal Boat Safety Act of 1971. Like a boat with a safety defect, the Coast Guard's administration of the program should be recalled and repaired.

The second issue of concern to us, Mr. Chairman are four disturbing reports involving excessive use of force or destruction of property by the Customs Service or the Coast Guard.

The reason I bring this up at this time is because the Coast Guard authorization bill now before you contains a Section 11 which gives the Coast Guard broader boarding authority. I would like you to consider these cases in the context of that reauthorization.

Case Number one. On March 5, the harbor at Boot Key, a very popular anchoring spot in the Florida Keys, was invaded by 77 armed law enforcement officers, using 11 government boats. The effectively blockaded the harbor and dozens of officers from four

agencies boarded boats and conducted searches. According to newspaper reports, these boat owners were intimidated by the armed officers, had their boats ransacked and were not allowed to leave the harbor until the operation was finished some six hours later. Assisting the Coast Guard were U.S. Customs, the Florida Marine Patrol and the Monroe County Sheriff's Department.

According to a letter we received from Customs, the operation was based on intelligence from three agencies. "Customs sources indicated that the harbor was being used by sailboats to off-load contraband from hidden compartments. Coast Guard sources indicated that gross violations of the Marine Sanitation and Vessel Safety Act were being committed. The Monroe County Sheriff's Department had received information indicating some of the sailboats housed fugitives from justice and also contained stolen property."

What were the results of this raid and boarding of 174 vessels? Citations were issued for 18 improper marine heads, seven for expired flares, six for improper numbering or documentation, six for improper registration, four for expired fire extinguishers, three for missing life jackets, two for sound devices and two for missing pollution placards. No arrests were made and no drugs were found.

Case number two. A 46-foot recreational boat was stopped and boarded by the Coast Guard 17 miles from Miami. The owner of the $250,000 boat was not aboard at the time because he had hired a licensed captain to deliver the boat from the Bahamas to Fort Lauderdale after his two-week fishing trip ended in bad weather. When nothing was found except some registered guns, the captain was ordered to follow the Coast Guard. Three miles out of Port Everglades, the boat was again boarded and searched by dogs.

Once in dock at Port Everglades, another boarding party searched the boat and the captain was held at gun point outside for six hours. When he was finally let go, the captain saw officers boarding the boat with chain saws and power drills. No effort was made to contact the owner or check his background before the boat was torn apart, although the owner's wife received one call from the Coast Guard asking what kind of car her husband drove and how often he left the country.

The owner of the boat, Ralph Phillips, a South Carolina business man who is also Rear Commodore of the Charleston Yacht Club and several State commissions, is struggling to come to grips with the $100,000 in damages to his boat. Floorboards were cut open when they could have been removed with a screwdriver, every cushion slashed when they open with zippers, bulkheads were cut open with chain saws and 16-inch square holes were sawed through the deck. Not a single trace of drugs was found on the boat.

When Phillips was finally contacted, the Coast Guard merely instructed him to come and get his boat. At Port Everglades, he was kept waiting for four hours, with no apology or comment at all on the condition of his boat. He was told that were "through" with him and to leave. He was given two outdated claim forms to fill out. The boat, which had been for sale, is now worthless as he does not have $100,000 to pay for his repairs.

Case number three. A Jacksonville, Florida university professor, Craig Klein, hired a professional captain to deliver his 29-foot English-built sloop from St. Petersburg. While stopping in Stuart, Flor-

ida for fuel, he was descended upon by a small army of sheriff's deputies and Customs officers who ransacked the cabin and drilled 16 half-inch holes through the hull of the boat.

Apparently the police became suspicious because the recently purchased boat had old documentation papers. They also claimed their drug dogs barked suspiciously.

The captain was arrested and the boarding party used crowbars to rip out the mahogany interior woodwork, the V- berth headliner, floorboards, drawers and closets. Officers throwing parts of the boat into the cockpit missed, said Klein, and about a third of his gear was lost overboard.

While drilling holes in the hull, these law enforcement officers succeeded in penetrating the fuel tank, spilling 25 gallons of diesel fuel into the boat. The boat was left in that hazardous condition. It is estimated that repairs will cost thousands of dollars.

Again, the owner was not on board, and while officers said they tried to call him to verify ownership and destination of the boat, Mr. Klein says he was home all evening and was never called.

Case number four. Another Florida boat owner, William Lipton, was out fishing one night off the coast of Boca Raton last March. While trolling on the way back to port, out of the darkness came an unmarked "cigarette-type" boat which followed so close it fouled his trolling line.

Without providing any identification, three "young people" on the boat came alongside and boarded. They wore raincoats that said "Police" on the back but refused to give their names or identification, other than to say they were from Customs. They were all armed and Lipton says they took great pleasure in showing off their weapons.

Lipton was ordered to follow them to dock. A female officer asked him to remove the plate on his cockpit floor. She declared it a "concealed compartment". Lipton explained that it was his fuel tank. According to Lipton, she seemed confused and asked how the fuel got into the tank.

Lipton was told he would have to wait until a drill team arrived. While he was wondering if a band was going to appear, the officers advised him that the drill team was a special group that drilled holes in boats to look for hidden compartments.

After waiting for two hours, an older gentleman arrived, looked over the boat and then apologized for the other three.

Mr. Chairman, Mr. Clement, we have the highest regard for the Coast Guard and Customs, and I am sure that these bizarre cases are aberrations. But we are, nonetheless, troubled by these reports of excessive zeal. Some innocent citizens now face thousands of dollars of damage to their property. Others, who live on their boats, no longer feel safe from the Government in their own homes.

As I am sure you will agree, the extraordinary police authority that has been given to the Coast Guard and Customs carries with it a certain responsibility to be mindful of the rights that we enjoy as American citizens.

As with the Coast Guard's defect program, we believe it is time for the Congress to review the way our Federal agencies are carrying out the laws of this country. It is time to provide them with some much-needed direction, which they appear to have lost.

On behalf of our association members, I would like to thank you for this opportunity to express our concerns and I would be happy to answer any questions.

Mr. TAUZIN. Thank you, Mr. Sciulla. Mr. Labow, would you please summarize your testimony?

[The statement of Mr. Scuilla can be found at end of hearing.]

STATEMENT OF BARRY R. LABOW, PAST PRESIDENT, NATIONAL BOATING FEDERATION

Mr. LABOW. Thank you, Chairman Tauzin. Just a quick note of housekeeping. I did transmit a supplementary testimony.

Mr. TAUZIN. Yes.

Mr. LABOW. And somehow it did not get into the package. I believe Mr. Wright has it, but I will hand another copy.

Mr. TAUZIN. And we will indeed make sure that it is part of the record.

Mr. LABOW. Thank you.

This morning you asked for the Admiral—for some responses from the boating community, how things were being accepted, so I am going to take just a moment to identify myself and our organization because I will respond, and I think have some meaningful responses to you.

National Boating Federation is in fact an association of associations. We have 23 major associations in the United States, including United States Coast Guard Auxiliary, United States Power Squadrons, United States Yacht Racing Union and I think you get the idea, many, many others.

The pyramid that we represent, our combined membership, is over two and a quarter million. So I think when we talk about that many boat owners—and we represent no one else—when we give you a response, you will recognize that it is a boat owner type of response.

Personally, I am active on ASBA's education committee, SOBA, which is another acronym that unfortunately I do not see here, State Organization for Boating Access, because some of these Wallop-Breaux funds were in fact intended for facilities and they were formed specifically to finally maybe be able to get the boat owners something in the form of a little facilities support along with boating safety education and law enforcement.

I am a former member of BSAC, so I am familiar with their activities. I am an 11-year member of Underwriters Laboratories and Marine Engineering Council. So I think some of my responses can at least be put in that context.

Congress amended an existing law regarding vessels carrying passengers for hire. The portion of the law amended is commonly referred to as the "six pack" law. The effect of the amendment is that the Coast Guard seems to think that the scope of their power and authority was substantially broadened. Subsequent to the change, the Coast Guard has zealously pursued the law, specifically with regard to pleasure craft. At this point in time, the Coast Guard has advised the recreational boating public that they, the Coast Guard, need to rigidly enforce the law in order to eliminate the serious offenders. In the process, innocent pleasure boaters who

do not feel they have violated any law because they have not accepted any financial consideration, now find that the Coast Guard is attempting to cite them as violators. I have five examples here. I will leave it to summarize, for you to read them. I will, however, mention that subsequent to filing our original statement, the Coast Guard's own Boating Safety Advisory Council in its meeting in Coeur d'Alene last week did unanimously pass a resolution and I think that resolution ought to be made part of this record.

In effect "Now, therefore, be it resolved" even though it is not in that language, starts with number one. "The law should be amended for purposes of consideration by BSAC, the Subcommittee recommends that the following wording of 46 USC 2101.21(b)(5) and (d)(4), a person is not a passenger who is a guest on board a vessel being operated primarily for pleasure, who has not contributed consideration as a condition for carriage aboard. Or, two, U.S. Coast Guard should immediately issue interpretive rulings clarifying (a) contributed consideration, as not including voluntary contribution of food, beverage, other articles or operating expense on a recreational vessel where such contribution is not a condition of carriage aboard and (b) only for pleasure, as usages where consideration is not a condition for carriage aboard.

Three, the U.S. Coast Guard should promptly apprise this Subcommittee of its actions in response to these recommendations." That is the end of the quotation of the resolution.

The National Boating Federation, on behalf of its over two million boat owning families, urges Congress to correct this excess of authority and to stop the Coast Guard from further misapplication of the law.

The National Boating Federation fully supports the resolution of the National Boating Safety Advisory Council. The insertion of suggested language in the resolution will remove the current ambiguity.

Now I would like to make a couple of quick comments if I may in response to some of the things from this morning.

I would like to put the drunk boating problem into perspective. Please understand, we do not want drunks on the water any more than anybody else. In fact, we are on the water and we are in danger from them. So in that context, I want to State that we continually hear statistics being quoted that 50 percent of the accidents are alcohol related. That is a misleading statement. The true statement is 50 percent of the reported accidents are alcohol related. Now we also know that the figures supplied indicate that approximately 10 percent of boating accidents are reported. We have heard other speakers allude to this today. So what we really know is five percent of the boaters have alcohol related accidents. I do not want to minimize it but I want to try to put it in perspective. We also know that of the remaining 90 percent, there is certainly some percentage in there, but we cannot establish what that is.

I think it is important because just the way we used to talk about boating accidents and every time a fisherman fell overboard, that was a boating accident, every time a hunter fell overboard, that was a boating accident.

Mr. CLEMENT. Where do you get the five percent now?

Mr. LABOW. Well 50 percent, sir, of the 10 percent of the accidents being reported. These are Coast Guard figures, NASBA figures, from everyone. They are estimating that only 10 percent of the accidents are reported. And of that 10 percent, 50 percent are alcohol related. We certainly support that.

Our one concern on penalties is that we have singled out one segment of the boating public for what I will call excessive penalties. Again, I think any of them should be penalized and so does our organization, but if we looked at automobiles as an example, the penalties suggested or enacted by the States is certain far and above the penalties in an automobile.

As an example, as stated by Tennessee this morning, first offense takes away the right to operate. Certainly that does not happen with the first, second or third offense in an automobile in any State that I know of. And I do not want to go into detail, but all I am saying is that all segments of society ought to be treated equally under the law.

P.F.D.s, a comment was made about Type 4s and the BSAC recommendation. Everybody knows that no matter how good the personal flotation device, if you do not wear it, it is not going to work. The Type 4 was an attempt to get people to wear PFDs. They may not function as well as Type 1s or 2s, but if somebody has got it on, they sure have got a lot better chance than if they did not have it on at all. We support the wearing of PFDs.

Education. Education is working. It is true we are not reaching a large enough segment, but the figures annually keep going down on rates of accidents, total fatalities. We are making headway. We say let us support it, let us expand it. But if we get it into the mandatory area, what we are concerned with is that a four-hour or six-hour course is going to "satisfy the requirement", and not encourage people to get into the more detailed courses of say the Power Squadron, U.S. Coast Guard Auxiliary, the Red Cross, and others.

Now I will get back to my statement.

The Transportation Department proposal for Coast Guard operating expense funds for fiscal 1990 offends the National Boating Federation's sense of equity. Barely six months after Congress raised the ceiling on the Wallop-Breaux fund's boating safety account to authorize twice as much Federal fuel tax paid by boaters for the Coast Guard; in other words $15 million to $30 million, we find it proposed to withhold half of the funds authorized for State boating safety assistance, also originating in the boater's Federal motor boat fuel tax, as a ploy to gain still more revenue for the Coast Guard.

The budget proposal indicates no sensitivity for the fact that even the Coast Guard acknowledges the States are doing the lion's share of recreational boating safety law enforcement and education. We fear that this cut in State funding, if allowed to go through, would seriously undermine existing, effective State boating safety programs and would place the nation's boaters in a position of jeopardy.

It is unconscionable to us that the Department is, at the same time, proposing a $25 user's fee—that we call a tax—on recreational boaters that use navigable waters of the United States. We feel we are justified in questioning the validity and fairness of the im-

position of user's fees when few services in some cases and no services in many cases are provided by the Coast Guard. The Admiral this morning gave you quite a few statements to support that statement. There are no search and rescue people in 22 States covered by the Second Coast Guard Districts. 775 people administer 22 States with two officers and four enlisted men being the boating safety team as one small part of their total assignment. We think this is a problem.

The nation's boaters have contributed more than $100 million of the marine fuel tax deposited to the Wallop-Breaux fund which has been specifically authorized and appropriated to the Coast Guard in the past five years. In reauthorizing the boat safety account of the fund this past year, Congress doubled the Coast Guard's share to $30 million per year.

Office of Management and Budget proposed the amount be increased to $45 million for fiscal year 1990. No matter how you put it, this is a user's fee that more than offsets any Coast Guard expenses, to service recreational boating. It is a fact that the Coast Guard withdrew its BOSDETS teams, Boating Safety Detachments, several years ago. It is also a fact that the States have assumed the permitting and patrolling, races and regattas in the waters of concurrent jurisdictions. Further, on many navigable waters, aids to navigation are not for the benefit of shallow draft recreational vessels, they are for deep draft commercial vessels. The Coast Guard term is that these aids are for commerce an navigation. At least that is true in coastal waters.

We know it is Coast Guard policy in non-emergency search and rescue missions to divert to commercial towing companies. All things considered, why should it be proposed that boaters pay a user's fee when the Coast Guard provides little in the way of services and they already are receiving a user's fee in the form of Wallop-Breaux boat safety account funding.

The National Boating Federation urges the Subcommittee to reject both the user fee proposal and the administration's proposal to change the formula for the distribution of the Wallop-Breaux boat safety account.

The National Boating Federation supports the position of the States Organization for Boating Access that 10 percent of the boat safety account should be authorized for the acquisition, construction or repair of public access. Although Congress has affirmed that public access is an integral part of the boat safety account, experience indicates only a small minority of the States use any part of their allocation for public access. We suspect that this may be due to the fact that the States do not understand the eligibility for public access. It would help to have one or more facilities oriented persons appointed to the State government sector of the National Safe Boating Advisory Council.

Gentlemen, I do appreciate the opportunity to be here, our organization certainly appreciates it and frankly we appreciate the continued support that we have always had from the Coast Guard and Navigation Subcommittee.

Mr. TAUZIN. Thank you, Mr. Labow.

[The statement of Mr. Labow can be found at end of hearing.]

Mr. TAUZIN. Mr. Sciulla, you of course detailed some rather nasty circumstances of some unfortunate boarding events. In those cases, were those individuals entitled to seek redress in the form of claims for damages?

Mr. SCIULLA. I am not aware of any procedures, Mr. Chairman.

Mr. TAUZIN. Well you said that one was handed some claim forms. I take it then there is a claim procedure for damage done?

Mr SCIULLA. I gather there is, but I am not familiar with how the claims works.

Mr. TAUZIN. You are not sure what happened as a result?

Mr. SCIULLA. No. And quite frankly, I suspect with old outdated Government claim forms, it is going to be some time before this individual gets his boat put back right.

Mr. TAUZIN. I would appreciate sort of a follow-up report from you if you have contact with those individuals. I would like to know what became of those cases.

As you know—as you pointed out, they are extraordinary incidents, but when you consider all the boardings that occur and all the law enforcement activity that occurs, it is not unusual that you are going to have some strange incidents.

Mr. SCIULLA. We did contact Congressman Fascell two months ago, he is the Congressman from the Keys.

Mr. TAUZIN. Yes.

Mr. SCIULLA. And asked him to look into the matter. Replies have been received from Customs and from Florida Marine Patrol. But the report from the Coast Guard is still outstanding.

Mr. TAUZIN. We would like to look into that if you could make sure that we have copies of the correspondence.

Mr. SCIULLA. We will do that.

Mr. TAUZIN. Secondly, I wanted to point out that you are giving us I suppose a second-hand report on these instances. They were reported to your association and you are reporting to us, right?

Mr. SCIULLA. Correct.

Mr. TAUZIN. So that it would probably help us if we also got—I am sort of directing these comments to the staff here—some kind of a playback from the affected agencies to see what they have to say about these instances. It is usually the case that there is more than one side to this kind of story.

Mr. SCIULLA. We would be more than happy to provide you with all the information that we have.

Mr. TAUZIN. Thank you.

Mr. Labow, first of all, regarding your analysis of how many accidents might be alcohol-related, would it be terribly unfair to interpolate in this case if 50 percent of the accidents that are reported are alcohol-related, is it unfair to assume that a rather large percent of those that go unreported are alcohol-related too?

Mr. LABOW. Yes, sir, I think it would be.

Mr. TAUZIN. Why?

Mr. LABOW. The reason for that is that anything that we estimate would be at best a guesstimate. We know that alcohol or substance abuse will impair and that will in a high percentage of the cases lead to an accident, a fatality.

Mr. TAUZIN. Sure.

Mr. LABOW. Of all of the rest of the accidents, I do not think we can apply a percentage, but let us, just for the moment, to give you something to work with. If we said that instead of 50 percent, that 25 percent or 20 percent or some such figure, I would be hard-pressed to argue with it, as I think anyone would, but I think it is totally unfair to assume that boaters are out there and they are nothing but a bunch of drunks, and that's what a statement that 50 percent of the——

Mr. TAUZIN. I do not think it says that. I think it merely says that of the statistics we do have available in accident reporting, and admittedly accident reporting is not well done, we brought that out earlier. That of the information we have, that a large percentage of what we know is alcohol-related. And I am not surprised by that, and I do not think you are.

Mr. LABOW. No.

Mr. TAUZIN. You know, I come from a State where almost everybody has an ice chest aboard their boat and most every ice chest has something in it other than bologna sandwiches. And I know that alcohol is common in boating, recreational boating as well as unfortunately commercial boating.

Mr. LABOW. Unfortunately though, the common perception of the uninformed person, whether that person be a legislator or a member of the public, is that they filter out—they take what they hear and their perception is 50 percent of the boaters out there are drunks, even though it is not stated.

Mr. TAUZIN. That is certainly not the statement and I do not believe anybody has implied that. Most of the boaters in fact do not have an accident, and I think you can conclude that most of the boaters therefore are not driving around impaired, you know, if you wanted to draw that conclusion.

The point is, of the accidents we have, the information we have is that alcohol plays a major role. Can you dispute that—I mean, would you dispute that?

Mr. LABOW. That is a correct statement. I will also submit another figure that you might find useful.

Mr. TAUZIN. What is that?

Mr. LABOW. Did you know that four percent of the boating public are involved in violations? That is beyond accidents. Our offenders are four percent, 96 percent of them out there are safe, sane boaters—at least we hope so.

Mr. TAUZIN. Yeah, but they may have a little alcohol aboard too.

Mr. LABOW. Oh, sure.

Mr. TAUZIN. The point is that we cannot ignore numbers that come out on reportable incidents like that.

Mr. LABOW. Absolutely.

Mr. TAUZIN. We have to deal with it and I think you agree with that.

Mr. LABOW. Surely.

Mr. TAUZIN. Let me take another statement you made and examine it just a bit. You said that the drunk boating laws provide for more severe penalties than drunk driving laws?

Mr. LABOW. That is correct.

Mr. TAUZIN. My understanding is that most drunk driving laws, particularly since MADD got into action, do have mandatory suspension of driving privileges now as a feature of the law.

Mr. LABOW. First offense?

Mr. TAUZIN. Yes, sir, first offense in some cases, in at least permissive—suspension of driving privileges for a time on first offense is common in many drunk driving laws now. But certainly in second offense and certainly in third offense. The third offense statutes say you are going, fellow, you are out of the car.

Mr. LABOW. I would hope they would, but unfortunately I see too much of it in my own State, which happens to be California and very frankly numerous offenses. And I think they should have their privileges taken away. I think they should go to jail.

I am not saying that the enforcement is too strong against boaters, I am saying though it is out of proportion to that as relates to——

Mr. TAUZIN. See, that is what I do not get. I have not heard yet or seen evidence that drunk boating laws are more severe than the drunk driving laws. To the contrary, what we have tended to learn from our research and our hearings—and Louisiana is an example—is that the drunk driving law in first offense is mandatory 30 days loss—suspension of driving privileges. So there is a first offense provision, many States have it.

What I am saying is our experience, our knowledge to date is that drunk driving laws have generally been more severe than drunk boating laws. You are the first to tell us it is the other way around, and I wondered if that——

Mr. LABOW. I talked with Mr. Goddard at the National Transportation Safety Board——

Mr. TAUZIN. He agreed with that?

Mr. LABOW. He tends to agree with that, yes, Bill—Gossard I should say, Bill Gossard.

Mr. TAUZIN. That is worth exploring because our information is otherwise right now. I want to get into that and if you are correct, I would be very interested to learn that.

Mr. LABOW. I will follow up.

Mr. TAUZIN. Finally, you point out that indeed you would support mandatory requirements on the wearing of personal flotation devices. Would you support wearing it under 12, over 12, where do you come down?

Mr. LABOW. I think what we are working toward, we are together on the National Safe Boating Council as well—we all wear all these hats. The fact is, you know, statistics prove if you wear them, you have got a good chance of saving your life. I do not care what the age is. I think we are more careful with children, to be sure, but we have also got more control over our children.

Mr. TAUZIN. But should Government mandate that adults protect themselves as much as you and I would like adults to protect themselves? Should we mandate it as a matter of Government policy?

Mr. SCIULLA. Mr. Chairman, there may be one potential solution here. Over the past couple years, totally inflatable PFDs, personal flotation devices, have been developed and put into use in the U.S. They have been used for many years in Europe. I am talking about

a device about the size of this glass that could be clipped to your belt when you are out boating.

Mr. TAUZIN. Yes.

Mr. SCIULLA. If you should inadvertently get tossed over the side, you just rip the cord and out will come a fully inflatable device. Now they are more expensive, and they certainly are not as reliable as your standard Type 1 or Type 2, but nonetheless the big problem we have is getting people to wear them. Over the last ten years there has been major, major improvements made in the wearability of a PFD, but nonetheless they are still bulky and people do not—just do not want to wear them when they are out having fun.

Mr. TAUZIN. Exactly.

Mr. SCIULLA. All right. But if you could remove that awkwardness and just say here, slip this on your belt, you would be making great strides.

Now the Coast Guard has been balking at approving totally inflatable PFDs for years.

Mr. TAUZIN. Because of their unreliability?

Mr. SCIULLA. Well questions of reliability. We do not know if they are unreliable.

Mr. TAUZIN. That is true.

Mr. SCIULLA. But I do think that the Coast Guard needs to be urged by the Committee to report back by a date specific with a final determination on this issue.

Mr. TAUZIN. That is interesting. You also raise a question about the serious problem of defect recall.

I did not get a chance—we were moving right along and I missed the opportunity earlier, but do you know how many defect recall campaigns the Coast Guard has initiated since 1972?

Mr. SCIULLA. Mr. Chairman, I have been representing BOAT/U.S. for about ten years now and the defect recall program that the Coast Guard operates is probably the most frustrating experience that I have had.

Mr. TAUZIN. Well you look frustrated, you really do.

Mr. SCIULLA. We turn cases after cases after cases over to the Coast Guard and it just sort of drops into a big black hole over there. We just do not know what happens to it. No, I do not know how many cases they have developed over the last 20 years, I have no idea how many non-compliance cases, defect recall cases. I dare say the Coast Guard would be very reluctant to supply me with that information.

Mr. TAUZIN. We can get it, I am sure. You mention a Chris Craft recall at one point, 1987 and 1988 models. Do you have a general idea for me whether or not manufacturers have done recalls on a regular basis or is that a rare event?

Mr. SCIULLA. The program works two ways. The Coast Guard can require a recall or the manufacturer——

Mr. TAUZIN. Can initiate it.

Mr. SCIULLA. ——can initiate it. I would say probably 98 percent of the recalls are initiated by the manufacturers.

Mr. TAUZIN. That is done in the regular course of business to protect themselves from liability, correct?

Mr. SCIULLA. That is correct. But the cases that we brought to the Coast Guard's attention that seem to us to be clearly safety related, we have just been totally spurned. And I mean, by and large, part of it is funding and part of it is manpower. Back in 1980, the Coast Guard had 600 people dedicated to boating safety. I dare say I could probably count maybe 10 or 15 people left in the whole country in the Coast Guard dedicated to boating safety.

Mr. TAUZIN. I am glad you said that. It turns on that issue so often. Those of you who are representing boat owners and operators around the country, who rely upon the Coast Guard for services like that and who complain when the Coast Guard admittedly makes a mistake, does not do a good job, conducts a boarding improperly or perhaps does not respond to a request you make under laws we pass; we generally find out one of the basic reasons we have not had the kind of response we want in those circumstances is that there has been a shortage of resources or under-funding.

Well let me make a point. I am going to check into those problems that you brought to this Committee's attention and the Committee staff will do some research for me and if you all will be of assistance to us, we will call upon the Coast Guard to respond as well. But in the end, we are going to need you all, frankly, in alerting this country's attention to the importance of having the Coast Guard properly resourced so it can do a better job for you in these critical areas.

I know you have seen the figures that by the turn of the century, 80 percent of the American people will be living an hour from the shore line somewhere, and that increasingly, as Bob pointed out, here in these little recreational lakes in this area, more and more boats, more and more people are utilizing these waters. Sooner or later, the boat owners of America need to raise their voices in a loud chorus and say to Congress, look, we are tired of not getting answers or help when we need it from the Coast Guard, we need you to resource them better so they can respond to these things. And frankly I am going to appreciate your help as time goes along to build that kind of consensus in the boating public.

Mr. SCIULLA. You can count on us, Mr. Chairman.

Mr. LABOW. Mr. Chairman, quickly two comments. One is with respect to what we expect from the Coast Guard.

Mr. TAUZIN. Yes, sir.

Mr. LABOW. Please understand that at the height of its boating safety activity—not now, but at the height, the Coast Guard handled 14 percent of the total SAR cases.

Mr. TAUZIN. Yes.

Mr. LABOW. And they reduced it very substantially. I do not have a figure but if somebody told me it was four or five percent or even less———

Mr. TAUZIN. Even when we had it funded as much as we have ever funded it, it was only dealing with only 14 percent of search and rescue?

Mr. LABOW. That is correct. All others were either handled by Coast Guard Auxiliary or the private boater or whatever.

Mr. TAUZIN. Do you have any kind of estimate on it today?

Mr. LABOW. There is no way of getting a number any more.

Mr. TAUZIN. I know it is tough. Any idea at all? Could it be cut in half, two-thirds?

Mr. LABOW. I am saying if it is four or five percent, I would be surprised, I think it is less.

Now the other thing with regard to PFDs. Mike brought up, you know, the canister type.

Mr. TAUZIN. Yes.

Mr. LABOW. I happen to have the state-of-the-art semi-inflatable. In other words, mine has flotation and the canister. It was specifically designed for wearability, it is not even on the market, it is that new. And if I was to put myself in the position of being the typical boater, I would say it still is not comfortable enough to encourage me to wear it. I do wear it, but we have not gotten there yet.

Mr. TAUZIN. I understand. I think Bob pointed that out earlier. I will now turn to him for other questions.

Mr. CLEMENT. Mr. Sciulla, I heard your testimony awhile ago, and I just wanted to follow up on what the Chairman asked Mr. Labow about laws in general pertaining to boats or boat owners, and not just talking about alcohol- related issues, but the total issue. Do you think the laws are tougher for boat owners and boat operators than they are the general public, when it comes to law enforcement?

Mr. SCIULLA. No, Mr. Clement, I do not. I have watched the development of the drunk boating program for the last five years, ever since the National Transportation Safety Board first made it a public issue, and I have seen I think more than half of the States climb on board and pass a boating while intoxicated statute. I have gotten very, very, very little negative reaction from my members on the boating while intoxicated statutes. It has been generally agreed that its time had come, because quite frankly out on the water today, boaters are fearful of drunk boaters, boaters are fearful of congestion which is getting worse every year, and boaters are fearful of other boat owners who do not know the rules of the road.

Right now, if anybody here was wealthy, you could give your 16 year old son $50,000 for a nice hot boat, give him the keys and off he would go on that lake, no questions asked.

There have been remarkable strides made, the fatality numbers have gone down from 20.1 per 100,000 to less than 6 today, are remarkable, but I think in many instances this is almost perpetrating a fraud because just counting fatalities is no measure of boating safety on our waterways. If we are only getting five percent of the accident data, that is a crime.

Now the Coast Guard has been relying for its general policy over the last ten years on a survey done by DOT in 1975. There has been no survey done since then, there is one now currently funded under the Wallop-Breaux program and we expect to have those survey results some time by 1991. Perhaps when we know actually what is happening on the waterways, we will be able to develop some better public policy.

Mr. CLEMENT. It appears like you want us, want Congress, to revisit the issue concerning Customs and Coast Guard in particular. Are there some other agencies that you want us to revisit concerning the laws that are on the books now or are you referring strictly

to personnel that are being over-zealous in the job that they are performing, because I know you gave some examples. I mean were they over-zealous or were they doing their job or looking for drugs or what?

Mr. SCIULLA. I think they were obviously over-zealous, Mr. Clement. They were doing their job, but I am not sure that the public needs to be subjected to work performed in that manner. On the two or three cases that I brought to your attention, these are cases where there obviously was a lack of authority on the part of either the Coast Guard or Customs, in overseeing those particular boardings. I mean something went wrong badly, to do damage like that—something went wrong very badly.

Mr. CLEMENT. But do Customs and Coast Guard for example, do they have too much authority today or are these just over-zealous enforcement officers?

Mr. SCIULLA. I think this is a case of an aberration, Mr. Clement, I really do.

Back about four or five years ago when the Coast Guard was stepping up its boarding of recreational boats, there was a hue and cry in many parts of the public and we all got together with Commandant Yost and he issued some new guidelines and generally speaking things have worked very well for the last four or five years. But things are obviously being stepped up tough in Florida, for all the right reasons. And I just think that after the trouble that this Committee, the Judiciary Committee, went through to pass its zero tolerance provisions—I'm sorry, its innocent owner provisions last year, which was a remarkable achievement. I know I was on my honeymoon when I found out that the Congress——

Mr. TAUZIN. Which was remarkable?

[Laughter.]

Mr. SCIULLA. It was remarkable when I found out that the innocent owner provisions were passed, considering the tenor of the times right before election.

But I do think that you need to take a look at this, particularly Section 11 of your authorization bill, and get some answers from the Coast Guard and find out why these cases occurred and perhaps put into place some procedures that can assure that this type of thing will not happen again and that these boat owners who are facing substantial monetary losses are quickly compensated.

Mr. CLEMENT. Your comments on the Coast Guard's failure to investigate fully consumer complaints about boat defects is very disturbing. However, I noticed your recent Association newspaper included a briefing on manufacturers' recalls of several boats. How did these recalls come about, were they voluntary, as a result of Coast Guard investigations or the result of boaters complaints?

Mr. SCIULLA. I believe you are probably referring to a brief I had on the back page of one of my newsletters, the last issue. Those were manufacturer initiated recalls. As I said earlier, I suspect about 98 percent of the recalls are initiated by the manufacturers for liability reasons. But it is those cases that we give the Coast Guard that just fall into a black hole that—those are the things that really trouble us.

Mr. CLEMENT. BOAT/U.S. recently printed an extensive article about personal flotation devices. Could you please bring us up to

date on this most important issue? Maybe we have already really covered it, but I wish you would expand on it a little more.

Mr. SCIULLA. Well about five or six years ago, there was a number of boating safety experts who felt that the written material that goes with a life jacket was just chock full of the worst example of governmentese that you could possibly find. The written *information that came with* the PFD did not tell you where you should use this PFD, in what type of waters, and what you could expect from this PFD. It was terrible nonsense.

And so we spent five years rewriting—I mean going up the Government ladder and back down the Government ladder and over and sideways, but it took essentially five years to produce a new brochure which says well listen, if you are going offshore, this Type 1 is what you should use, because it will keep your head above water and may even turn you in rough water, and it will keep you afloat for a longer period of time. Now this Type 3 that the Coast Guard recommends, that everybody is buying, really ought not to be used offshore because this is not going to keep you up in anything but very, very calm water. So that effort took five years.

I think the next thing that needs to be looked at is totally inflatable PFDs and I think the Coast Guard should be told report back by a specific date with your extensive findings, let us make a decision one way or another.

Mr. CLEMENT. Okay.

Mr. Labow, do you think there is any correlation between people being around water and drinking alcohol, that they might consume more alcohol around water for recreational purposes than they would other places?

Mr. LABOW. I think if we expanded the statement to people are more likely to be using alcoholic beverages in recreational pursuit, I would have to definitely agree with that. Certain types do not lend themselves to it. Tennis players are using an awful lot of energy and I do not think they are generally using it during their game but they certainly use it right afterwards.

Mr. TAUZIN. I think they spike the Gatorade.

Mr. LABOW. But I do not think boaters use alcohol in any greater percentages than many other pursuits. Certainly hunters, certainly fishermen—and I am not saying hunters who are necessarily in a boat, but they are usually operating in a cold climate or relatively cool, and theoretically they are warming up. I think we could point to any major recreational group—off-road people. I happen to be an owner of an RV, I go out with groups all the time. I want to tell you I see more drinking there by far than I see in the boating area.

Mr. CLEMENT. Does the Federation rank or have information about the record of States acquiring or constructing or repairing public ramps, providing access?

Mr. LABOW. Yeah, relatively, there is a pretty good assessment of that. I want to give credit to the National Association of State Boating Law Administrators because I think in their small craft advisory it has been summarized State-by-State.

Mr. CLEMENT. Would the proposal to earmark ten percent of the boat safety account for access be sufficient to meet current requirements?

Mr. LABOW. No, but it would certainly encourage more. At the present time we are getting nothing. When this whole thing—you know, before it became Wallop-Breaux and it was a Biaggi bill and all, we were talking in terms of one-third. We are safety conscious and we would say that we think there is a greater need in most ways for boater safety than necessarily boater access. But there ought to be some relative phase, instead of one-third maybe it is 20 or 25 percent, but at this point, since the States Organization for Boating Accidents themselves are proposing ten percent, we are supporting that number.

Mr. CLEMENT. All right, thank you.

Mr. TAUZIN. Just quickly. Mr. Labow, you mentioned the problem with the definition of passenger with reference to how the Coast Guard has authority or does not have authority in that definition. You are recommending that the Congress in its reauthorization, actually at some point redefine?

Mr. LABOW. In fact I went to specific language.

Mr. TAUZIN. Legislatively you think it is necessary, there is no——

Mr. LABOW. We had a pretty good law, then they amended it and there are all kinds of ambiguities. By the insertion of just four words we take the ambiguity out of the law.

Mr. TAUZIN. Could that be settled by changes to Coast Guard regs?

Mr. LABOW. Well we are citing——

Mr. TAUZIN. You do not think so, Mr. Sciulla?

Mr. SCIULLA. No, the Coast Guard says their hands are tied, they cannot make the decision.

Mr. LABOW. Right, that is number one. The other one is with regard to Wallop-Breaux. Last year this Committee said well can we not handle that by administrative agreement, memo. We are talking about when we raised it to 30-30 and agreed that the States would always get at least as much as the Coast Guard.

Mr. TAUZIN. Yes, sir.

Mr. LABOW. And less than six months later, it is violated. So at this point, no, frankly I do not trust anybody, I want to see it in the law.

Mr. TAUZIN. I have got your message.

Same thing Mr. Sciulla, with the defect recall, are you suggesting language changes in the statute are required to get this section moving better?

Mr. SCIULLA. How about some Committee report language I would be satisfied with, and we would be more than happy to work with you on some legislative language.

Mr. TAUZIN. I would like to see what you suggest in regard to that, if you do not mind.

Finally, I do not know if I ought to mention this to you, Mr. Labow, but if you really want access considered in the application of funds in the State level, I suggest the easiest way to do that is to let the legislators know in the home States.

Mr. LABOW. Yes, sir, and we have.

Mr. TAUZIN. Gentlemen, thank you.

Mr. LABOW. But we will follow that statement up, to be sure. Thank you.

Mr. TAUZIN. We will now convene the fourth and fifth panels together for the sake of time. We will also—I understand we have someone with a plane problem, Mr. Smith—and I do too, so we are going to have to move along.

Let me introduce them quickly. Nancy Linden of the National Marine Manufacturers' Association; Phil Keeter, National Marine Retailers Association who is accompanied by John Paggett; Jeffrey Smith who is with American Waterway Operators and Les Sutton of Ingram Barge Company.

I believe, Mr. Smith, we have agreed that you should go first.

STATEMENT OF JEFFREY A. SMITH, VICE PRESIDENT, AMERICAN WATERWAY OPERATORS

Mr. SMITH. Thank you very much, Mr. Chairman, I appreciate you letting me sneak in. I have got a plane connection.

Mr. TAUZIN. I understand.

Mr. SMITH. My name is Jeffrey Smith and I am Vice President for Public Affairs of the American Waterways Operators. I am here today on behalf of the 300 plus member companies AWO represents who are involved in the domestic inland and oceangoing tug and barge industry. AWO would like to express its sincere appreciation to this Subcommittee for its efforts to promote safety on the nation's great waterways system. We have learned a great deal today as well, Mr. Chairman.

As this Subcommittee well knows, the nation's tug and barge industry plays a vital role in the American economy. We move a full 15 percent of the nation's freight. Our vessels carry almost 60 percent of all U.S. grain bound for export, 40 percent of the nation's total petroleum and petroleum products, and one in every five tons of U.S. coal.

But we are here today to discuss not so much an economic issue, but a human issue. Here in the Nashville area and on the 26,000 miles of navigable inland and coastal waterways of the nation, the coexistence of recreational boaters, water skiers, jet skiers, fishermen, swimmers and others who use the water for pleasure, along with the working tugboats, towboats and barges of our industry, is a fact of life. But this togetherness on the nation's waterways can also be an environment in which serious accidents and death may occur.

Consider that along with 15 million pleasure boats cruise 7000 towboats and tugboats as well as 30,000 barges of all types. It is getting very, very crowded.

The AWO wants to emphasize up front that the waterways in our opinion do not belong to any single type of vessel—recreational or commercial. The sail boater, power boater, fisherman or water skier has just as much right to be on the water as the tugboat, towboat or commercial fishing boat. But there are too many accidents involving recreational and commercial vessels.

The annual rate of reported accidents for this type of incident has almost doubled in the last seven years. This is one of those cases where the news is not good. According to the Coast Guard, there have been over 300 accidents, over 70 deaths and over 40 serious injuries, not to mention damage to pleasure vessels alone in

excess of $8 million attributable to accidents between commercial and recreational vessels since 1981. Most tellingly perhaps, many of these accidents are preventable through widespread boater education. The statistics themselves make this case. According to the Coast Guard, 59 percent of the total accidents and 69 percent of the deaths resulting from accidents between recreational and commercial vessels since 1981 have been the result of failure to comply with the rules of the road, or errors in judgment, or just plain carelessness. Add this to the fact that only about ten percent of recreational boaters have had any formal boating safety training and one can easily deduce that a vast educational void needs to be filled.

Mr. Chairman, Mr. Clement, this spring AWO and the barge and towing industry it represents has mounted a major and unprecedented safety program—we call it the Lifelines program. It is designed specifically to fill this void. Through publication of over a quarter million carefully developed Lifelines brochures, and through very aggressive efforts to stimulate media attention throughout the country, the barge and towing industry aims to develop a more clear awareness that on many waterways where millions of people are recreating, that thousands of tugboats, towboats and barges carrying millions of tons of cargo are working.

Through the Lifelines program we will demonstrate in clear, easy-to-understand terms some of the operational restrictions and requirements of commercial vessels that recreational boaters should know. These operating restrictions are not always apparent. For example, few realize that a towboat and barges approaching a bridge or lock needs to be lined up and committed to its approach, like an airliner coming in for a landing, well ahead, and it is difficult and dangerous for them to change course. In the same way that a light plane would not sit on a commercial runway until the last minute with a jumbo jet approaching, it is best for recreational boaters to stay out of the way.

In Lifelines, we have also suggested some basic precautions recreational boaters should take regarding commercial vessels in order to avoid danger. Shakespeare may have said that, "The best safety lies in fear", but we do not want to encourage that emotion. What we do want to encourage is understanding. We want to ask recreational boaters to avoid cargo-loading docks or fleeting areas, understanding at least one warning signal, the danger signal. We suggest that safe anchorages be used. We suggest that water skiers avoid jumping wakes or riding close alongside a commercial vessel and that life jackets or PFDs be worn at all times. Most of all—and this is not certainly applied only to our corner of the recreational boating safety issue— we strongly and unequivocally urge all boaters to avoid drugs and alcohol. On commercial barge and towing industry vessels, all illicit drugs and alcohol are strictly prohibited.

This is not a one-way street. At the same time AWO member companies are attempting to educate recreational boaters, our companies are distributing the Lifelines materials both within their companies and aboard their vessels. Commercial vessel pilots undergo intensive professional training and a rigorous licensing program administered by the Coast Guard. Our mariners, those who control our vessels, have many years of experience before they take

the controls. Nevertheless, our industry believes firmly that there is always something new to learn, or a seasoned skill to be fine-tuned, and the Lifelines program works to encourage a greater awareness of recreational boaters among our captains and our crews as well.

The Lifelines recreational boating safety program has been enthusiastically received by the Coast Guard Auxiliary, the U. S. Power Squadrons and BOAT/U.S., all of whom have agreed to actively distribute our materials nationwide. The tug and barge industry really does deeply appreciate this high level of cooperation and enthusiasm.

AWO and the industry we represent is 100 percent behind the effort to enhance recreational boater safety. Our members have joined together to underwrite the Lifelines program and will be enthusiastically promoting it in their local area through the media and other appropriate outlets. Mr. Les Sutton, President of Ingram Barge Company, who is here with me this afternoon, is spearheading the Lifelines boating safety effort in the Nashville area. His company alone is distributing thousands of Lifelines brochures at key points such as marinas, sportsmen's clubs, marine suppliers, boat yards, fishing tackle stores, convenience stores near marinas and so on. This effort is ongoing in many major areas around the country where the tug and barge industry has a presence.

Again, we commend and thank this Subcommittee for holding these hearings, and I will attempt to answer any questions you may have.

Mr. TAUZIN. Jeffrey, how tight is your time, do you want to take some questions now?

Mr. SMITH. I have got some time, sir.

Mr. TAUZIN. All right. Why do we not just run around to the other panel members and then we will get to questions.

Nancy, I think you are next. Ms. Linden.

[The statement of Mr. Smith can be found at end of hearing.]

STATEMENT OF NANCY LINDEN, GOVERNMENT RELATIONS, NATIONAL MARINE MANUFACTURERS' ASSOCIATION, ACCOMPANIED BY LARS GRANHOLM, DIRECTOR, TECHNICAL SERVICES DEPARTMENT IN CHICAGO, NMMA

Ms. LINDEN. Before I start, Mr. Chairman, I would like to introduce the gentleman to my left, this is Lars Granholm, he is the Director or our Technical Services Department in Chicago and he would just like to make a few comments on some testimony that went earlier.

Mr. TAUZIN. Sure.

Mr. GRANHOLM. Mr. Chairman, I would like to address a couple of things that were discussed earlier. One was the personal watercraft issue. Within the industry, there is a personal watercraft industry association which is part of the National Marine Manufacturers' Association. Concern has been expressed about the safety of these new type of vessels, and indeed like Mr. Clement said, it is an exploding industry. We are within this industry developing standards for these now. It is under the auspices of SAE, the Society of Automotive Engineers. We have a committee involving Coast

Guard personnel and industry personnel as well as some other people. These vessels are generally excepted from most Coast Guard regulations currently. So we are going to develop a comprehensive set of standards including requirements for flotation, how many people should be on it, for the fuel systems, electrical systems, including a label stating that a life jacket must be worn at all times when these are in use.

Mr. TAUZIN. Quickly, will those be Federal or State imposed standards?

Mr. GRANHOLM. No, these will be voluntary standards, SAE standards. They will be used by the personal watercraft industry association as a standard. They will be used within our association for our certification program. We will go out and inspect the vessels, make sure they meet the standards, they can use a sticker like a Good Housekeeping or UL sticker.

Mr. TAUZIN. What would prevent a manufacturer that does not belong to your association from not adhering to the standards?

Mr. GRANHOLM. The product liability concern. When we have a nationwide—and we have practically all the participants—all the manufacturers already belong to our association, so we are quite sure that they will start participating in the certification program.

Second item if I may. Mike Sciulla talked about the defect notification program.

Mr. TAUZIN. Yes, sir.

Mr. GRANHOLM. And as he mentioned and I agree, about 98 percent of the defect notifications are initiated by the manufacturers. This was the intent of the Federal Boat Safety Act also. Basically—I worked with the Coast Guard when this was initiated, I worked for seven years in the headquarters. Basically the defect notification program works out quite well. Yes, there are instances where the Coast Guard, maybe because of a lack of personnel, has not been able to do investigations as they should. However, if you look at the Coast Guard statistics, the failure due to equipment is down to something like three percent or less. The vast majority of all accidents have been due to operator inattention or negligence.

So the only thing the Coast Guard needs is that it needs to be provided with funding to run this program. From our association we have a certification program for boats, the ones which fall under the Coast Guard requirements. We certificate approximately 75 percent of all the boats built in the country. However, this 75 percent are manufactured by maybe 10 percent of the number of—20 percent maybe—of the number of manufacturers. There is a large group of manufacturers who are not certificated by our association and those are the ones where the Coast Guard should concentrate their efforts as far as going after to make sure that these people are taught how to comply with the regulations, and this is where the enforcement really should be concentrated. Thank you.

Mr. TAUZIN. Thank you, sir. Nancy.

Ms. LINDEN. I am just going to briefly summarize my testimony. I am looking forward to answering questions about drunk boating and personal watercraft but my written testimony does not cover those two issues.

There is difficulty year after year in getting the full level of funding for the boating safety account as spending from the fund is

factored into the Department of Transportation's overall budget ceiling. Can anything be done to get the boating safety account off budget with the Transportation Department?

And on the issue of principal place of use, the NMMA respectfully requests the Subcommittee clarify the intent of Congress in the Federal Boat Safety Act of 1971 regarding the definition of reciprocity among the States.

And finally, NMMA urges support of Representative Davis' bill H.R. 1343, which would require non-motorized watercraft to be registered and numbered federally.

Thank you.

Mr. TAUZIN. Thank you very much, Ms. Linden. We will now go to Mr. Keeter, from National Marine Retailers Association.

[The statement of Ms. Linden can be found at end of hearing.]

STATEMENT OF PHIL KEETER, EXECUTIVE DIRECTOR, NATIONAL MARINE RETAILERS ASSOCIATION

Mr. KEETER. Thank you, Mr. Chairman, Congressman Clement, thank you for letting us be here today. Before I start my testimony, most of it has been touched on by some of the other participants today, I would like to have the record reflect that Mr. Sciulla know that my Chris Craft has not been recalled at this point in time.

Marine Retailers Association of America represents approximately 3000 small businessmen who sell boats, boating equipment and operate marinas. They do approximately $6 billion worth of business in this great United States.

I would like to piggyback on Colonel Carter's comments earlier, boating is a very popular form of recreation in Tennessee. As of last year, there were about 80 marinas and 320 boat dealers in this State. In fact, boating is growing in Tennessee. In one year from 1986 to 1987, Tennessee jumped three places from 19th to 16th. There are approximately 225,000 boats in this State. We still do not have what Louisiana has.

Mr. TAUZIN. Catching up quickly though.

Mr. CLEMENT. Where does Louisiana rank?

Mr. KEETER. I cannot tell you that, Congressman. He forbade me to say that.

Mr. TAUZIN. Between first and nirvana.

[Laughter.]

Mr. KEETER. I want to emphasize to this Committee that those are not fat-cat owners of glamour yachts. Those are typically married household family people that own a trailerable boat, 16 foot or less in length.

Mr. TAUZIN. Maybe even a pirogue or two.

Mr. KEETER. Maybe even a pirogue or two, right.

This is a very large constituency—this is a lot of people——

[Laughter.]

Mr. KEETER. ——that look to the Coast Guard for all sorts of things and that is guidance in boating safety issues. And we as marine retailers support that. We also strongly support full funding of the boating safety account and we oppose any proposal to reduce either the Coast Guard or State boating safety programs.

We are deeply appreciative of the work that this Committee has done, and what the Congressman has done in that regard.

Another bill that is of deep concern to us on the national issue is H.R. 2118 recently introduced by Congressman Silvio Conte of Massachusetts, which proposes to charge a $25 indirect user fee to the owners of recreational boats. This just does not make sense. If you consider the administration's proposal to reduce appropriations from the boat safety account and the user fee bill together, these two legislative proposals would serve to increase taxes to American boat owners and at the same time would deny them the full benefits of existing and highly successful and directed user fees.

Also, on the six-pack law that Mr. Labow mentioned earlier, I almost every Sunday morning take my neighbor across the lake and he almost always buys my breakfast, and I would hate to have to have a captain's license to be able to do that.

I would like now to turn our part of the program over to Johnny Paggett, who is the owner and operator of Modern Marine here in Nashville, and let Johnny say a few words.

STATEMENT OF JOHN PAGGETT, OWNER/OPERATOR, MODERN MARINE, NASHVILLE, TENNESSEE

Mr. PAGGETT. Thank you. And thank you, Mr. Chairman, Mr. Clement. I too want to thank you for giving us an opportunity to testify before your Subcommittee today.

The marine dealers and marina operators in Tennessee are concerned as always with water safety. But maybe even more so today. The U.S. Power Squadrons, the Coast Guard Auxiliary, State organizations and boating clubs have provided excellent safety courses for the boating public. We encourage our customers to take one of these courses. We also provide an in-house boating course on videotape that is provided by the MRAA. We feel that education is a key ingredient in the prevention of accidents. This has been stressed over and over, but I think that is very important.

We only have to look at the declining death rate to see the success of the many boating safety programs that are offered. The actual number of deaths have also been declining in the past 20 years, which is unbelievable when you consider how many boats are increasing on the lakes and waterways, and as congested as Percy Priest is, especially on the weekend.

We strongly endorse the voluntary boating education programs now being provided and we encourage the usage of funds from the boat safety fund to be used to better communicate the availability of these courses.

The National Boating Safety Advisory Council is currently studying the issue of boater education and more specifically the recently passed legislation in the State of Maryland, which you have already discussed, which makes it mandatory for you to take a boat safety course. This study should be completed in about two or three years. We believe any legislation requiring mandatory education for boaters should be postponed until the results of this study have been made available.

Another major problem on the water in Tennessee as in all other States is the same problem we have been talking about all day, the

same problem we have on our highways, and that is alcohol abuse and drug abuse. When combined with the environmental effects of sun and wind and with fatigue, alcohol can have a devastating effect on a person's judgment. We support legislation that will place a similar blood alcohol content level on operators of recreational boats as is on the driver of a car.

We also ask that boat safety courses continue to emphasize alcohol restraint and teach potential effects of the combined factors of the environment and alcohol on a person's judgment.

Some other things that I had made a note of this morning while we were having breakfast, the Tennessee boat registration fees should be increased. Nobody has mentioned this, but we feel that this fee should be increased—we are probably the lowest in the United States. I think to register a boat, for a 16- foot boat it costs $20 for three years.

Mr. TAUZIN. Ours is two and a half.

Mr. PAGGETT. In Louisiana it is two and a half?

Mr. TAUZIN. I am guessing, we have a $3.00 license fee for a car.

Mr. PAGGETT. Well that is kind of ridiculous. I heard somebody say that their's was triple that. But this money could be used to increase the number of boat ramps, launching areas, several other things.

I do feel that boats should be titled in the State of Tennessee as in other States, it is not a requirement. I am against State fuel taxes unless a proportionate amount is to be spent on increasing water recreational opportunities.

I feel that all States need strict laws similar to motorized vehicles when alcohol or drug abuse is concerned on our lakes and waterways.

Remember when determining what boating laws will be passed in the next few months—I read this in a magazine, I just had to say it—the President only proposes, the Congress disposes. So let our voices be heard as our industry is constantly threatened by new ideas not always in our best interest.

Mr. TAUZIN. Remember the President proposes, the Congress disposes and the President vetoes.

[Laughter.]

Mr. PAGGETT. That is correct.

Mr. Clement, I know your family has been active in boating for several years, your family used to go boating with my in-laws in the early stages of Old Hickory Lake before the water ever came up. They were already planning it.

Mr. CLEMENT. That is correct.

Mr. PAGGETT. And I sold your brother, Frank Clement, Jr. his first inboard/outboard. So I feel good that you are actively seeking solutions to boating safety in the State of Tennessee.

Mr. TAUZIN. This is your life, Bob Clement.

[Laughter.]

Mr. PAGGETT. Thank you, Mr. Chairman, that concludes my part of the testimony.

Mr. TAUZIN. We will now hear from Mr. Sutton of Ingram Barge, who can give us an update on how indeed the education program is working.

STATEMENT OF L. E. SUTTON, PRESIDENT, INGRAM BARGE COMPANY

Mr. SUTTON. My testimony gives some examples of how the commercial industry interfaces with the recreational boating industry, and I would like to emphasize that by and large we coexist very well, there are very few problems. But as Jeffrey said, when problems do exist, they can be devastating because it is very hard to stop a towboat. We finally came to the conclusion that most of the problem really is lack of understanding. We have exactly the same problems with recreational boaters that you have heard all day long.

In fact, I called up one of our old captains and when you guys were worried about statistics, I calculated that—he did not give me any statistics but he had spent 100,000 hours standing between the sticks of a towboat watching what went on with recreational boaters, and again recognizing that these are when we have problems, not all of the boats, I said what are the problems we have with recreational boats. He said alcohol, alcohol, alcohol, inattention and lack of knowledge.

So clearly alcohol is a big problem with those recreational boaters that our industry has problems with. And the other is inattention and lack of understanding.

But the other thing—and I say this with some trepidation after watching those slides—basically these people are our neighbors, they are you and I, and they do not intentionally go out and get loaded and cause problems. So I was very happy when AWO decided to start this Lifelines program. We have had other efforts on a local basis before that have been effective and so we are going to try to take it throughout the industry and just see how it works, and certainly this will not be the last program that we will be involved in.

Mr. TAUZIN. Thank you, Mr. Sutton.

[The statement of Mr. Sutton can be found at end of hearing.]

Mr. TAUZIN. Mr. Smith, let me run quickly through a few things. How effective is your ban of alcohol in commercial operations?

Mr. SMITH. I am going to refer that to Mr. Sutton.

Mr. SUTTON. Actually alcohol has been a problem for us for a long, long time. Not that commercial boaters are abusers of alcohol but that the consequences are so devastating. You remember the ferry in Louisiana several years ago.

Mr. TAUZIN. Yes.

Mr. SUTTON. So most of the companies have taken a very hard line against alcohol. We have a very, very active drug and alcohol testing program and we finally started taking breathalyzers on because you can test for alcohol in the urine, but you cannot tell how much or when he had it. I would say out of—well, we have never found, and we have been testing for about three years and we have tested thousands and thousands—we have never found a person on one of our vessels who has had any alcohol in his system at all.

Mr. TAUZIN. Obviously they never went on Exxon's *Valdez*.

Mr. SUTTON. You know, we were shocked when we saw that the captain on Exxon's *Valdez* ran into trouble because you know and I know Exxon has an excellent safety record.

Mr. TAUZIN. Absolutely. That is what shocks all of us.

Mr. SUTTON. Our guys work six hours on and six hours off and they work very close with one another, and frankly I think there is a lot of self-policing because if you are on the vessel abusing alcohol, you are going to get your buddy in trouble. Now we have had more trouble with drugs because basically our people are rural people and as the young guys began to bring drugs on, the old captains did not recognize it, they did not know what it was. If he had been drinking, they could have picked it up.

Mr. TAUZIN. Yes.

Mr. SUTTON. So drugs were a problem. We have been again very aggressive. You just do not work for the barge and towing industry basically if you use drugs.

Mr. TAUZIN. Also in regard to the program you instituted, I take it the heart and soul of it is education primarily for recreational boat owners, about the peculiar nature of the commercial traffic and why—as you pointed out, Mr. Smith—why there are some things that need to be avoided. What kind of response are you getting from this program?

Mr. SMITH. Well it is just off the ground, so it is hard to tell. The Coast Guard and the U.S. Power Squadrons are literally waiting for us to get them hundreds of thousands of brochures that they have been so kind to distribute. So we are just starting.

We did initiate this in the media last week and the response has been great. We have had calls from all over the country from newspapers in boating towns and cities all across the country saying this is a really great idea. It has never been done before.

As to your question about what we are trying to inform people about, it is a sense of understanding. If you have ever been out on the Chesapeake Bay in a fishing boat——

Mr. TAUZIN. I have.

Mr. SMITH. ——and you look behind you and you see this ship and it looks like it is on the horizon and will never get there. You turn around and hook and fish and before you know it, the ship is on top of you.

Mr. TAUZIN. Yes.

Mr. SMITH. That is the kind of thing people do not understand. A towboat on the Ohio River or any river can travel one mile in seven minutes. It takes three-quarters to one and a half miles to stop. If a water skier falls a thousand feet in front of a moving tug or a tow, the skier has less than one minute to get out of the way—he is in trouble. People do not understand that. We are trying to impart this knowledge, and education is our best defense.

Mr. TAUZIN. Is there enough of an effort being made to—for warnings to be posted in given areas and warnings to be posted aboard various kinds of vessels that would not be proper in a given area?

Mr. SMITH. Not on a formal basis, as far as I know.

Mr. TAUZIN. I wonder if that has been looked at. You pointed out earlier in your testimony, there are some areas that are particularly dangerous where commercial activities are occurring. And again, not that other people do not have a right to be there, it is just a dangerous place and if you can go have fun somewhere else, you

would probably be well advised. I wonder if an effort might be undertaken to include warnings in those areas.

Mr. SMITH. It would be great if there could be such an effort. You take Cincinnati Harbor in front of Riverfront Stadium, 26,000 boaters go up and down that lane right there and you get a couple of tows going through there and it is a formula for disaster, and public information, media attention to this issue, are the ways we are trying to spread the word.

Mr. TAUZIN. Could we go back——

Mr. SMITH. Excuse me, Mr. Chairman——

Mr. TAUZIN. Let me have Bob go first.

Mr. CLEMENT. Go right ahead.

Mr. SMITH. Mr. Sutton has agreed to stay and will be happy to answer any questions you have. I appreciate everyone's time.

Mr. TAUZIN. You are going back to Washington? That would make a great movie, Mr. Smith Goes to Washington.

[Laughter.]

Ms. Linden, you made a good point in your written testimony about the reciprocity issue and you talk about the difficulty of in fact coming to a good definition of permanent——

Ms. LINDEN. Principal place of use.

Mr. TAUZIN. ——principal place of use.

Ms. LINDEN. Yes.

Mr. TAUZIN. And you indicated in your description of how that gets confused and how that does create some real problems in reciprocity.

Have you a solution as to how we can clear that up?

Ms. LINDEN. The language in the Federal Boat Safety Act of 1971 states that the Congress would like for the States to have a higher degree of reciprocity, those are the exact words. And we would like for the Congress to go back in and just modify that a bit and make it clear what does that mean, so that the Coast Guard could then——

Mr. TAUZIN. What it should mean I suppose is what I am asking you? How should we say that reciprocity is to be accomplished?

Ms. LINDEN. Automobiles on interstate highways do not have to pay additional tolls, unless they access toll roads when——

Mr. TAUZIN. Right.

Ms. LINDEN. ——they cross State lines, and the same sort of thing should be done on the water.

Mr. TAUZIN. In that case, you have got to come to a good standard definition of principal place of use. What should be that definition?

Ms. LINDEN. It should be that boats should be operated on waters of the State—on any Federal waters or State waters with the same degree of reciprocity from one State to another.

Mr. TAUZIN. But again, to make it work the vessel has to be, I suppose, registered and licensed in a principal place. How do you define it.

Ms. LINDEN. You need a definition of days, 30 days or 60 days as principal place of use. If the vessel spends 60 days in the State, that is its principal state of use, and that needs to be standardized among the States.

Mr. TAUZIN. Hmmm.

Ms. LINDEN. The National Association of State Boating Law Administrators recommends 60 days.

Mr. TAUZIN. And secondly you asked the question, can we take boating safety account off budget and the answer is probably not.

Ms. LINDEN. It is something to consider. We are not fostering any turf wars between appropriations or authorization committees, but——

Mr. TAUZIN. I mean we cannot get social security off budget, so we are not likely to get boating safety accounts off budget. But you have pointed out the main difficulty and that is that these accounts, like all of our Coast Guard accounts, are tied up in the major transportation budget. Whenever there are cuts to be made, it seems like—at least since I have been here—that when the administration reduces funding for Amtrak and other transportation functions, suddenly it has to come out of somebody else's hide when Congress tries to find ways to restore those cuts. And all too often it comes out of Coast Guard hide.

Ms. LINDEN. If I could just maybe put something out for you to consider. What about getting it over into the Fish and Wildlife Service under Interior and having a memorandum of understanding between the Coast Guard and the Fish and Wildlife Service so that the Coast Guard could continue to administer the fund, but that the money would come out of Interior or Fish and Wildlife.

Mr. TAUZIN. Well then it might all go to Alaska. It is worth looking at.

Bob, why don't you ask a few questions while I go back and look at my notes.

Mr. CLEMENT. Mr. Sutton, with all the lakes available for recreational boaters in Tennessee, is the interaction between recreational boaters and commercial vessels as serious in Tennessee as it is in other river systems on which Ingram operates?

Mr. SUTTON. I do not believe so. There are real hot spots, Jeffrey mentioned the St. Louis Harbor. There are also various regattas and things as you have heard mentioned earlier, and again the Coast Guard does an excellent job of keeping us advised of when to watch out for the various functions. No, Tennessee does not have as great a problem with the interface. Now we have some problem with the mussel divers down on the Tennessee River, but we are working on that and in fact probably are going to put out some guidelines for those guys. But no, it is not as serious here as it is in some other areas.

Mr. CLEMENT. What role does the Coast Guard perform in protecting both commercial and recreational vessels on the rivers on which Ingram operates?

Mr. SUTTON. As I said, they keep track of the special events and they put out the warnings. The Coast Guard, we have also found, are very cooperative if we are having problems with recreational boaters in an area. They will pass that information on to the Auxiliary and the Auxiliary will get the information out. In fact, that is one of the reasons for this Lifelines brochure, we found out and got some feedback from the Coast Guard that people just do not understand, they like the boats. I have personally had to go down and shoo them away because they do not understand when you start to slow down, you lose your steering, and a lot of them just come up

to look. They like to play in the wake. So it was basically a lack of understanding, and we are trying to get that information out through the Auxiliary to help them understand.

Mr. CLEMENT. Does TWRA monitor river activities?

Mr. SUTTON. I would have to defer that to someone else. I believe they primarily concentrate on the lakes that have the heavier concentrations.

Mr. CLEMENT. Are laws governing shipping channel operations effectively enforced, so that potential problems are avoided?

Mr. SUTTON. Yes, basically. Now you know, most of the laws that affect us and recreational boaters, primarily give us right-of-way, and again because we like to be good citizens and like to have these people on our side when we interface with you guys, we usually try to work with them as much as possible.

I kidded Colonel Starboard, he has a slide of a towboat captain trying to get into Chickamauga Lock and it is just covered with recreational boaters and he is standing there kind of scratching his head, you know, how am I going to get in there with them, and he talks about sharing. So again, I think as far as those laws regulating us and commercial boaters, they are fine.

Mr. CLEMENT. What about the Lifelines program, are they included in any boating safety education programs here in middle Tennessee?

Mr. SUTTON. Yes, that is just starting. It will, I think, be an initial thrust and we are going to watch for feedback and try to expand it if we can. The way it was financed, it has turned out to be a very, very economical program. AWO prints them up, individual companies pay for a certain number and distribute them and AWO charges us three times what it costs, so they distribute to others for every one we distribute.

Mr. CLEMENT. Johnny, I know you talked about boats per se. Is the industry really growing here in the middle Tennessee area and what are your projections for the future?

Mr. PAGGETT. I think the boating industry is growing all over, yes, especially Tennessee. There are so many manufacturing outfits out of just the middle Tennessee area, that there is a lot of activity going on. I think you asked about—did you say the future?

Mr. CLEMENT. Yes.

Mr. PAGGETT. That depends largely on the economy. You have a great number of people in the business and if you overdo, and we are kind of going through a little slow period right now, I think it just depends on how that turns out, but as far as the retailer or the customer is concerned, I think boating will always be a big factor here in this area.

Mr. CLEMENT. Now I know the user fees were brought up earlier and I know you are opposed to those user fees, could you give me three or four reasons why you would be opposed to them?

Mr. PAGGETT. The main reason is I just do not feel that it goes to the source, I think it is spread out to wherever. Now that is what I have been led to believe and that is what I have read. You would have to tell me different I guess.

Mr. CLEMENT. No, I feel the same way.

Mr. PAGGETT. That is why I am against it.

Mr. CLEMENT. And Nancy Linden, I know you wanted to comment on two other issues that you mentioned.

Ms. LINDEN. Well I am available for questions concerning boating while intoxicated matters and personal watercraft. I represent the personal watercraft industry association also. I also this year have been spending a lot of time getting on and off airplanes in State capitols trying to get BUI laws passed, and we applaud Tennessee for their recent enactment of this law.

I would like to see the law amended next year, however, to include mandatory post-mortem testing. There has been a lot of talk today about statistics and how accurate or inaccurate they are. And if we mandated post-mortem testing at the State level, we could get a lot more accurate data.

Mr. CLEMENT. Thank you.

Mr. TAUZIN. Thank you, Bob.

I heard Mr. Granholm's outline of the committee's efforts in getting standards in the personal watercraft, but Ms. Linden, let me turn to you if you do not mind.

Ms. LINDEN. Yes.

Mr. TAUZIN. What is the association's view of the Florida statute that is being proposed right now, because it covers not only standards but use, age limits and operation, a mandatory personal flotation device—what is your view of that statute?

Ms. LINDEN. We helped write that Act, Mr. Chairman. The Personal Watercraft Industry Association and the Florida Marine Patrol and several State legislators sat down and hammered out this Act. This is the language we are pushing all over the country, we would very much like to see these laws enacted in all the States.

Mr. TAUZIN. How about—this is going a bit far, but let us talk about it—should there be an age limit on the operation of any watercraft, any power boat?

Ms. LINDEN. The Personal Watercraft Industry Association is recommending age 16 for rental of the craft, age 14 for ownership. That is the language that is now in the Florida law.

Mr. TAUZIN. That is for personal watercraft. What about for other vessels, have you all looked at that? I know we talked about the fact that you can put anybody behind the wheel of a boat and go.

Ms. LINDEN. We would like to see no one under the age of 12 operating a recreational watercraft without the supervision of an adult, immediate supervision of an adult.

Mr. TAUZIN. Are there any efforts around the country to do that? Mr. Keeter, maybe you can respond.

Mr. KEETER. I question the fact that age has that much to do with it. I question the fact that we have statistics that prove to us that under age is a problem in boating accidents. It is not that I would say that anybody could, but you know as well as I do, that some 10 and 12 year olds can operate a boat as well as some adults.

Mr. TAUZIN. Certainly.

Mr. KEETER. So I question the fact that age has anything to do with that.

Mr. TAUZIN. That is not a big issue, you have not seen that around the legislatures?

Ms. LINDEN. That varies from State to State.

Mr. TAUZIN. Also you recommended the Davis bill, numbering of all undocumented vessels.

Ms. LINDEN. Uh-huh.

Mr. TAUZIN. That would include of course barges that are undocumented. Mr. Sutton, what is your feeling about the Davis bill?

Mr. SUTTON. I am not familiar with it.

Mr. TAUZIN. It is my understanding it is not just sailing vessels, it is all undocumented vessels.

Ms. LINDEN. Yes.

Mr. TAUZIN. And you could carry a message back to Mr. Smith, we would like some feedback from AWO on that, since it does affect commercial vessels as well as recreational vessels.

Finally, someone raised a question concerning boat registration. Was it you, Mr. Keeter?

Mr. KEETER. No, I did not.

Mr. TAUZIN. Mr. Paggett?

Mr. PAGGETT. With reference to whether or not States required the registration of boats as well as the registration of trailers. What is the situation here in Tennessee, you do not require boat registration?

Mr. PAGGETT. Do not require boat registration nor trailer registration.

Mr. TAUZIN. Nor trailer registration. Do any of you know whether or not—Mr. Keeter, maybe you can tell me, is that common?

Mr. KEETER. That is not common, no. Every State is heading towards titling.

Mr. TAUZIN. Some form of titling.

Mr. KEETER. It is much better for the industry.

Mr. PAGGETT. Titling is what I thought you were referring to. I did not mean registration, naturally we have to register them.

Mr. TAUZIN. Yes, that is correct, I am not talking about registering, I am talking about titling as you do an automobile or a normal road vehicle. Most States require titles for trailers. You do not have any title requirements in Tennessee?

Mr. PAGGETT. None.

Mr. TAUZIN. Interesting. All right. Bob, do you have any other questions?

Mr. CLEMENT. No.

Mr. TAUZIN. Gentlemen and lady, do you have any other points you would like to make?

Mr. KEETER. Yes, I would like to make a statement that as I said—and of course I attend as many of these meetings as is possible and BSAC meetings and everything, I would submit to this Committee that probably one of the biggest problems that exists to the recreational boater is the dispensing of all this knowledge. It is not the fact I think that he does not want it, I think it is the fact that a coordinated effort between all these agencies, the Power Squadron, the Coast Guard Auxiliary, and here this is a fine example. We put out a boating education kit that we send to each one of our members that has certain items in it. This is something obviously that ought to be included in it immediately.

Mr. TAUZIN. Is such a packet given to the purchaser of a boat?

Mr. KEETER. We have some dealers that now have got—we have a video that comes in our package that we recommend that they show to that person during the closing of the sale, when they are ready to deliver the boat, they must view this video in safe boating and handling of a boat. And then it has a packet that goes with it. We now have some dealers that have gone to the extent to reproduce that and are giving that video to the people. Sitting them down to watch it or letting them take that video home.

Mr. TAUZIN. It seems to me that is a perfect point at which to help educate, the point at which the first time a boat owner walks in and negotiates the purchase of a boat and possibly a motor to go with it. It seems to me that it would be an excellent time for boating safety information to be, as you say, dispensed and even discussed. And perhaps even to establish at retail outlets some——

Mr. KEETER. In our kit, we do that very thing, we suggest to them that as you leave that customer to go get approval on the deal or whatever you do, then you sit him down to watch that video at the same time, then you redo that video when he picks up that boat.

Mr. TAUZIN. I wonder, Mr. Sutton, are you going to be distributing to retailers?

Mr. SUTTON. Yes, and marinas. I want to pick up on the video. We have been very active in training with videos. In fact, we are currently producing one for a boat safety inspection, and it takes the guy through. And we, Ingram in conjunction with some others, did the right-to-know video for the towing industry which AWO later distributed. It is very effective because of the age of the people you are dealing with. And we are going—our next one is going to be inspection before you discharge oil. So we would be very happy to make you a clip on towboats and put some of that in, which would go in that kit.

Mr. TAUZIN. We have put together some good things right here then.

I think that imagination will just take us on from here.

Let me thank you all. Bob has suggested that this is not quite a town hall meeting, but if there is anyone, since we are doing a field hearing, if anyone is in the audience who wanted to add or make any statement, we do have a few minutes left before we adjourn. Is there anyone that just feels they cannot go home tonight unless they say something?

[No response.]

Mr. TAUZIN. Thank you very much. Is there someone there?

Mr. MARMO. There are just a couple of things I would like to clarify.

Mr. TAUZIN. Why don't you grab one of the mikes, if you do not mind.

STATEMENT OF ALBERT MARMO, ASSISTANT CHIEF OF AUXILIARY, BOATING AND CONSUMER AFFAIRS DIVISION OF THE OFFICE OF NAVIGATION SAFETY AND WATERWAY SERVICES, UNITED STATES COAST GUARD

Mr. MARMO. Several points were made. Most of them I am not going to address here, but I would be pleased to address for the record.

There were a lot of figures presented on drunk boating. There are some hard facts available. California did a two-year study a few years ago that looked at boating fatalities. The Coast Guard estimate on alcohol involvement is in terms of boating fatalities because that is the best data source. The California study found 59 percent of boating fatalities over a two-year period were definitely alcohol-related. The Coast Guard did a study as part of our alcohol research, looking at accident reports from California and North Carolina, and I believe we found 54 percent. NTSB's report in 1983 specified the BAC for fatalities in several States, and as I recall a couple of States reported as many as 75 percent of accidents were alcohol related. So I think as far as fatalities go, there is no question that alcohol is a major factor. The Coast Guard has been working hard at trying to get better alcohol data. Colonel Ellingsen mentioned the National Boating Safety Advisory Council work, and the UL investigation seminars, and the Coast Guard's boating safety course at Yorktown.

Regarding age restrictions on operators, 27 States have age restrictions.

On inflatables, the Coast Guard is involved in several initiatives concerning inflatables. We have a regulatory project for commercial vessels, and one aspect of this is that proposed rulemaking incorporates a servicing program. Servicing is one problem on the recreational side that ties in with reliability. We are concerned that some of the boating public may not routinely follow a scheduled maintenance on these devices, and that is a big problem. In the commercial mode, a servicing and inspection program would be a legal requirement.

The PFD Manufacturers Association is coming up with new standards for inflatables which will be presented for Coast Guard consideration, and we are informally working with that group. Last summer we sent letters to foreign countries asking for their experience with inflatables. That information has been coming in and will be available to the Committee. The International Standards Organization is also considering inflatables. So inflatables are being looked at in several quarters.

On defect and recall campaigns, there were about 1400 since the Coast Guard started this program. About three-quarters of those were non-compliances, nearly all of which were determined by Coast Guard factory visits, compliance testing of boats, or boat show visits. The other quarter of the campaigns were mostly manufacturer initiated to correct safety defects as the Federal Boat Safety Act intended. These figures are available.

Mr. TAUZIN. For the record, let me identify you again as Albert Marmo, Assistant Chief of the Auxiliary, Boating and Consumer

Affairs Division of the Office of Navigation Safety and Waterway Service, United States Coast Guard. That is a long title.

Mr. MARMO. That is what reorganizations do.

[Laughter.]

Mr. TAUZIN. We just simplify things like the Tax Code, right?

What is the difference, for the record, between certified and uncertified manufacturers?

Mr. MARMO. Well the law requires that manufacturers—not the Coast Guard—certify that their boats meet the standards. The onus is on the manufacturers.

Mr. TAUZIN. So the manufacturer itself is not certified, the manufacturer certifies that the standards——

Mr. MARMO. The manufacturers must put a label on the boat certifying that the boat meets the standards. The manufacturers that Mr. Granholm was talking about employ a third-party certifier.

Mr. TAUZIN. To have more credibility.

Mr. MARMO. Yes.

And one last thing, you were asking about the rank of Louisiana in the number of numbered boats, it is number 10.

Mr. TAUZIN. And how do we rank in unnumbered boats?

[Laughter.]

Mr. MARMO. Probably pretty high.

Mr. TAUZIN. Al, thank you very much.

Bob, do you have any closing comments?

Mr. CLEMENT. No, I just thank all of you for participating in this hearing. I asked Chairman Tauzin if he would come to Nashville and hold such a hearing because I thought it was an appropriate time of the year and I think much has happened too, and much is in the pipeline concerning boat safety and particularly now with *Exxon Valdez* and all about the industry itself and the user fee and all. I deeply appreciate everyone attending today. Thank you all very much.

And thank you very much, Mr. Chairman, for making this hearing possible.

Mr. TAUZIN. Bob, let me also thank you and all the folks in Nashville for the exceptional hospitality you have accorded the Subcommittee and our staff.

Let me point out that field hearings are designed to do exactly what we have done today, gather information, ask some tough questions, get some controversial issues on the table and force people to think and talk and give us a chance to learn. And I think we have succeeded in that today. What we learned today and what is part of this record today goes back with us to Washington in making sure that other Members that are not with us today learn of these issues and when we do make decisions, that we have a better base, informational base, to make sound judgments upon.

So you have been very instrumental in that process, very helpful, and again Bob, your hospitality has been exceptional, as we expected. And we thank you for this visit and this chance for Washington to come home and to be with people and learn outside of that little circle that we live in within the beltway in Washington, D.C., where Mark Russell said the only town in America that is surrounded on all four sides by reality.

[Laughter.]

Mr. TAUZIN. Every now and again it is fun to come out and see what reality is all about. And we thank you for the opportunity.

With that, the hearing stands adjourned. We will have an awards ceremony as I adjourn this meeting, so please stay. With that, the hearing is concluded. Thank you.

[Whereupon, at 3:07 p.m., the Subcommittee was adjourned.]

[The following was submitted for the record:]

STATEMENT OF RADM WILLIAM J. ECKER, COMMANDER SECOND COAST GUARD DISTRICT ON BOATING SAFETY AND THE BOAT SAFETY ACCOUNT BEFORE THE COAST GUARD AND NAVIGATION SUBCOMMITTEE OF THE HOUSE MERCHANT MAPINE AND FISHERIES COMMITTEE ON 19 MAY 1989 IN NASHVILLE, TENNESSEE

GOOD MORNING MR. CHAIRMAN. THANK YOU FOR THE OPPORTUNITY TO TESTIFY AT THIS FIELD HEARING ON ISSUES RELATED TO RECREATIONAL BOATING SAFETY.

I WILL FOCUS MY COMMENTS ON THE BOATING SAFETY PROGRAM IN THE SECOND COAST GUARD DISTRICT FROM FOUR PERSPECTIVES: SEARCH AND RESCUE, EDUCATION, ALCOHOL ABUSE, AND OUR RELATIONSHIP WITH THE STATES.

LOCATED IN THE HEARTLAND OF AMERICA, THE SECOND COAST GUARD DISTRICT INCLUDES NEARLY 7,000 MILES OF NAVIGABLE WATERWAYS IN A 22 STATE AREA STRETCHING FROM WYOMING TO WEST VIRGINIA, AND FROM MINNESOTA TO LOUISIANA. UNITS IN THE SECOND DISTRICT INCLUDE 18 RIVER BUOY TENDERS, SIX MARINE SAFETY OFFICES, NINE MARINE SAFETY DETACHMENTS, FOUR DIRECTOR OF AUXILIARY OFFICES, A LORAN STATION AND AN OMEGA STATION.

THE COAST GUARD IN THE SECOND DISTRICT, SIMILAR TO THE COAST GUARD OVERALL, RELIES QUITE HEAVILY ON THE COAST GUARD AUXILIARY TO CARRY OUT MOST OF ITS RECREATIONAL BOATING SAFETY PROGRAMS. THIS IS ACCOMPLISHED THROUGH TRAINING, PUBLIC EDUCATION, COURTESY MARINE EXAMINATIONS, AND ON-THE-WATER PATROLS. A SLOW, BUT CONSTANT, DECLINE IN NATIONWIDE COAST GUARD AUXILIARY MEMBERSHIP OVER A TEN YEAR PERIOD WAS REVERSED IN 1987, AND FORTUNATELY THE UPTURN IS CONTINUING.

THE COAST GUARD'S TRADITIONAL SEARCH AND RESCUE MISSION IS UNIQUE ON THE WESTERN RIVERS OF THE SECOND DISTRICT IN THAT THERE ARE NO SEARCH AND RESCUE STATIONS. THE LAST SEARCH AND RESCUE STATION IN THE DISTRICT, LOUISVILLE LIFEBOAT STATION, WAS CLOSED IN 1972. BECAUSE THE SECOND DISTRICT EXTENDS OVER SUCH A LARGE GEOGRAPHIC AREA, THE COAST GUARD RELIES HEAVILY ON THE COAST GUARD AUXILIARY, LOCAL MARINE POLICE, FIRE DEPARTMENTS, STATE CONSERVATION

AGENCIES, AND OTHERS TO RESPOND TO DISTRESS CALLS FROM THE MORE THAN 2.6 MILLION REGISTERED BOATS IN THIS DISTRICT.

LAST YEAR (FY88), THROUGHOUT THE SECOND DISTRICT, THE COAST GUARD CONDUCTED 2,293 SEARCH AND RESCUE CASES, SAVED THE LIVES OF 48 MARINERS, ASSISTED 8,500 OTHER PERSONS IN NEED, AND PREVENTED THE DAMAGE OR LOSS OF HUNDREDS OF MILLIONS OF DOLLARS WORTH OF PROPERTY. ON THE OTHER HAND, REGULAR COAST GUARD ASSETS HAVE BEEN INSUFFICIENT TO MEET THE ENORMOUS DEMANDS GENERATED BY LARGE ON-THE-WATER FUNCTIONS SUCH AS THE RIVERBEND FESTIVAL IN CHATTANOOGA, THE TALL STACKS REGATTA IN CINCINNATTI LAST SUMMER, THE MISSISSIPPI RIVER RACE, OR EVEN THE NUMEROUS SMALLER SAILING REGATTAS WHICH ARE HELD HERE EACH SUMMER ON OLD HICKORY LAKE. IN THESE INSTANCES, AS WELL AS DURING ROUTINE SUMMERTIME AND WEEKEND BOATING ACTIVITIES AND SPECIAL EVENTS, AUXILIARY AUGMENTATION IS INVALUABLE. AUXILIARISTS CONDUCT ON-THE-WATER PATROLS WHERE THEY VOLUNTEER THEIR OWN FACILITIES AND TIME TO PERFORM SAFETY PATROLS, REGATTA PATROLS, AND NON-EMERGENCY SEARCH AND RESCUE MISSIONS. IN CALENDAR YEAR 1988 THE SECOND DISTRICT AUXILIARY COMPILED OVER 27,000 PATROL HOURS ON-THE-WATER, SAVED 55 LIVES, ASSISTED 5,200 BOATERS AND PREVENTED DAMAGE TO OVER $19 MILLION DOLLARS WORTH OF PROPERTY. IN THE SECOND DISTRICT THERE ARE APPROXIMATELY 3,500 ACTIVE AUXILIARISTS, COMPARED TO ONLY 775 ACTIVE DUTY COAST GUARD PEOPLE. IN TENNESSEE, THERE ARE 15 AUXILIARY FLOTILLAS WITH OVER 400 MEMBERS, WITH FOUR FLOTILLAS COMPRISED OF 114 AUXILIARISTS LOCATED RIGHT HERE IN THE NASHVILLE AREA. THE COAST GUARD, THE COAST GUARD AUXILIARY, THE STATES AND LOCAL AGENCIES ASSIST EACH OTHER IN THE SAVING OF LIVES AND PROPERTY WHEN EMERGENCY SITUATIONS ARISE. THE BOATING SAFETY ACCOUNT OF THE AQUATIC RESOURCES TRUST FUND HAS MADE THIS TYPE OF COOPERATION POSSIBLE, AND HAS FOSTERED AN EVER INCREASING ROLE FOR THE STATES AND LOCAL AGENCIES IN THE RECREATIONAL BOATING SAFETY PROGRAM.

ADDRESSING EDUCATION, MY SECOND AREA OF EMPHASIS, THE U.S. POWER SQUADRONS AND THE COAST GUARD AUXILIARY, ALONG WITH THE STATES, PROVIDE THE

MAJOR ROLE IN EDUCATING THE BOATING PUBLIC. WHILE THE POWER SQUADRONS AND THE COAST GUARD AUXILIARY HAVE BEEN THE TRADITIONAL BOATING EDUCATORS, THE STATES HAVE MADE AN ENTRY IN RECENT YEARS IN THIS AREA. STATE BOATING SAFETY COURSES OR BASIC BOATING BROCHURES ARE OFFERED IN ALL OF THE 22 STATES IN THE SECOND COAST GUARD DISTRICT. THE COAST GUARD AUXILIARY IS PERHAPS BEST KNOWN FOR PROVIDING SAFE BOATING EDUCATION PROGRAMS TO BOATERS OF ALL AGE GROUPS. THESE PROGRAMS ARE PRESENTED IN AUXILIARY CLASSROOMS OR IN NEIGHBORHOOD SCHOOLS. NATIONWIDE, MORE THAN 5 MILLION PLEASURE BOATERS, ADULTS AND YOUNG PEOPLE, HAVE ATTENDED COAST GUARD AUXILIARY SAFE BOATING CLASSES SINCE 1969. ALMOST 7,500 PERSONS TOOK AUXILIARY BOATING SAFETY COURSES IN THE SECOND DISTRICT LAST YEAR. THE AUXILIARY IS A MAJOR FORCE IN TRAINING NOVICES IN THE PRINCIPLES AND TECHNIQUES OF BOATING SAFETY. MEMBERS OF THE AUXILIARY ALSO TAUGHT STATE PRODUCED COURSES IN NINE STATES IN THE SECOND DISTRICT LAST YEAR.

ANOTHER COAST GUARD AUXILIARY CONTRIBUTION TO SAFETY ON THE WATER IS THE VESSEL EXAMINATION PROGRAM, IN WHICH A FREE COURTESY MARINE EXAMINATION IS OFFERED TO RECREATIONAL BOAT OWNERS TO INSURE THEIR FACILITIES ARE PROPERLY EQUIPPED FOR SAFE OPERATION. AUXILIARY COURTESY MARINE EXAMINERS NATIONWIDE HAVE GIVEN MORE THAN 4 MILLION OF THESE FREE SAFETY CHECKS TO PLEASURE BOATERS SINCE 1969, AND THEY CONDUCTED ALMOST 33,000 COURTESY MARINE EXAMINATIONS IN THE SECOND DISTRICT LAST YEAR.

CONFRONTED WITH TODAY'S DRAMATIC INCREASES IN BOATING AS A PASTIME, WITH 72.5 MILLION PERSONS INVOLVED NATIONWIDE, RECREATIONAL BOATING IS A MAJOR FORM OF OUTDOOR SPORT. THE COAST GUARD LOOKS TO THE STATES, THE POWER SQUADRONS, THE AUXILIARY AND OTHERS TO TRY TO KEEP PACE WITH INCREASED EDUCATIONAL AND SAFETY AWARENESS PROGRAMS. YET BEST ESTIMATES ARE THAT ONLY A SMALL PERCENTAGE OF THE BOATING PUBLIC IS BEING REACHED WITH ANY KIND OF FORMALIZED BOATING EDUCATION PROGRAM. RECOGNIZING THE NEED TO INCREASE PARTICIPATION IN EDUCATION PROGRAMS, NATIONAL SAFE BOATING WEEK HIGHLIGHTS EDUCATIONAL OPPORTUNITIES, AND TARGETS THE SMALL BOATER WHO USES A BOAT FOR FISHING,

HUNTING, WATERSKIING OR OCCASIONAL CRUISING. NATIONAL SAFE BOATING WEEK IS JUNE 4 THROUGH JUNE 10 THIS YEAR. AND, AGAIN, THE THEME IS "KNOW BEFORE YOU GO."

MY THIRD AREA OF EMPHASIS IS THE ISSUE OF ALCOHOL ABUSE IN THE RECREATIONAL BOATING COMMUNITY. WE BELIEVE THAT ALCOHOL ABUSE IS A CONTRIBUTING FACTOR IN AT LEAST 50% OF REPORTABLE BOATING ACCIDENTS. OPERATING A VESSEL WHILE INTOXICATED BECAME A FEDERAL OFFENSE IN 1984, AND VIOLATORS BECAME SUBJECT TO CIVIL ($1,000) AND CRIMINAL ($5,000, ONE YEAR IN JAIL OR BOTH) PENALTIES AFTER JANUARY 13, 1988. THE KEY TO AN EFFECTIVE CAMPAIGN AGAINST DRUNK BOATING IS TO COUPLE AN AGGRESSIVE EDUCATION AND PUBLIC INFORMATION CAMPAIGN WITH STRONG ENFORCEMENT STANDARDS. CURRENT STANDARDS INCLUDE BEHAVIORAL SIGNS OF INTOXICATION, AN INDEPENDENT BLOOD ALCOHOL CONCENTRATION (BAC), AND A PRESUMPTION OF INTOXICATION IF TESTING IS REFUSED. THE BAC LEVEL FOR INTOXICATION IS .10 PERCENT FOR RECREATIONAL VESSEL OPERATORS AND .04 PERCENT FOR OPERATORS OF COMMERCIAL VESSELS. THE LAW IS FLEXIBLE IN THAT FEDERAL STANDARDS WILL CONFORM TO ANY FORMALLY ENACTED STATE BAC STANDARD - HIGHER OR LOWER THAN .10 PERCENT FOR RECREATIONAL INCIDENTS - ON WATERS WITHIN THE GEOGRAPHIC BOUNDARIES OF THAT STATE.

THE STATE OF TENNESSEE HAS JUST PASSED A STATE LAW IN APRIL OF THIS YEAR WHICH PROHIBITS OPERATION OF A RECREATIONAL BOAT WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL AND SETS THE LEVEL OF "OPERATING UNDER THE INFLUENCE" AT .10 BLOOD ALCOHOL CONTENT.

THE MOMENTUM TO REQUIRE SOBRIETY WHILE BOATING IS BUILDING NATIONWIDE. MOST STATES EITHER HAVE SATISFACTORY INTOXICATED BOATER LAWS OR ARE WORKING TOWARD STRENGTHENING THEIR LAWS.

UNFORTUNATELY, LAST YEAR'S COAST GUARD BUDGET SHORTFALL PREVENTED ACQUISITION OF NEEDED BAC TEST EQUIPMENT, AND TRAINING OF COAST GUARD PEOPLE TO USE SUCH EQUIPMENT, TO ENFORCE THE NEW STANDARDS. THIS SUMMER, THE EIGHTH AND FIFTH COAST GUARD DISTRICTS WILL BE CONDUCTING A TRIAL ENFORCEMENT PROGRAM

USING BREATHALYZER EQUIPMENT ON BOARD SMALL BOATS WHOSE CREWS HAVE BEEN TRAINED IN ITS USE. THE RESULTS OF THAT TRIAL PROGRAM WILL BE INCORPORATED COAST GUARD-WIDE IN THE SUMMER OF 1990. IN THE INTERIM, WE WILL CONTINUE CURRENT ENFORCEMENT METHODS, WHICH INCLUDE:

- TERMINATING A VOYAGE FOR REASON OF ANY UNSAFE CONDITION.
- CITING FOR NEGLIGENT OR GROSSLY NEGLIGENT OPERATIONS.
- REQUESTING ASSISTANCE FROM LOCAL OR STATE LAW ENFORCEMENT PERSONNEL TO ADMINISTER CHEMICAL TESTING IF NECESSARY.

THE SECOND DISTRICT AUXILIARY PUBLIC AFFAIRS PROGRAM, WHICH IS PART OF THE AUXILIARY PUBLIC EDUCATION EFFORT, MADE OVER 6,000 PUBLIC APPEARANCES AND PUBLIC SERVICE ANNOUNCEMENTS IN 1988, MANY HIGHLIGHTING THE SUBJECT OF INTOXICATED BOATERS. ATTENTION CONTINUES TO BE FOCUSED ON THIS PROBLEM THROUGH PUBLIC SERVICE ANNOUNCEMENTS AND ARTICLES RELEASED TO LOCAL MEDIA. THE DANGERS OF ALCOHOL WILL BE ONE OF THE PROBLEMS EMPHASIZED IN THE NATIONAL SAFE BOATING WEEK CAMPAIGN. NOW THAT WE HAVE SOME OF THE TOOLS TO GRAPPLE WITH THE ALCOHOL PROBLEM, I AM OPTIMISTIC THAT WE SHALL SEE A REDUCTION IN THE NUMBER OF INCIDENTS ATTRIBUTABLE TO BOATING WHILE INTOXICATED.

WITH RESPECT TO STATE RELATIONSHIPS, MY FOURTH AREA, WORKING RELATIONSHIPS BETWEEN THE COAST GUARD AND INDIVIDUAL STATES CONTINUE TO BE EXCELLENT AND PRODUCTIVE IN ALL RESPECTS. PREVIOUS SECOND DISTRICT COMMANDERS HAVE NEGOTIATED WRITTEN AGREEMENTS WITH ALL OF THE STATES IN THIS DISTRICT, ADDRESSING BOATING SAFETY ISSUES SUCH AS SEARCH AND RESCUE, PUBLIC EDUCATION, BOATING CASUALTY INVESTIGATION AND REPORTS, REGATTA PATROLS AND LAW ENFORCEMENT. EACH STATE BOATING LAW ADMINISTRATOR (SBLA) HAS AN ONGOING WORKING RELATIONSHIP WITH MY BOATING SAFETY DIVISION. A COAST GUARD AUXILIARY LIAISON OFFICER TO THE SBLA HAS ALSO BEEN APPOINTED IN EACH STATE. COAST GUARD HEADQUARTERS IS PRESENTLY IN THE PROCESS OF HIRING TO FILL FOUR NEW POSITIONS TO BOLSTER OUR NATIONWIDE STATE LIAISON EFFORTS. THESE POSITIONS

WILL ENABLE US TO BETTER ASSESS WALLOP-BREAUX STATE GRANT FUND ALLOCATION AND USE, AND WORK DIRECTLY WITH THE STATES TO EVALUATE AND IMPROVE THEIR PROGRAMS.

IN TENNESSEE, LT BLYTHE, THE REGIONAL DIRECTOR OF AUXILIARY, HAS BEEN MAINTAINING CLOSE LIAISON WITH STATE OFFICIALS. HE IS A MEMBER OF BOTH THE TENNESSEE STATE TASK FORCE ON BOATING SAFETY AND THE TENNESSEE WILDLIFE RESOURCES AGENCY WATER SAFETY COUNCIL. LT BLYTHE HAS ALSO BEEN SELECTED TO WORK WITH THE WATER SAFETY COUNCIL IN DEVELOPING AND REFINING THE STATE'S BOATING SAFETY COURSE, AND WILL PROVIDE ASSISTANCE, AS REQUESTED, IN ANY STATE LEGISLATION IN THIS ARENA. OUR COMMUNICATIONS AND COOPERATION WITH THE STATES HAVE GROWN STRONGER EACH YEAR AS THEY EMBRACE A HEIGHTENED ROLE IN RECREATIONAL BOATING SAFETY ON THE WATER AND IN THE CLASSROOM.

IN CONCLUSION, THE REDUCTION IN THE NUMBER OF FATALITIES IN THE FIFTEEN STATES WITHIN THE LIAISON JURISDICTION OF THE SECOND COAST GUARD DISTRICT IS REFLECTIVE OF THE NATIONAL TREND. THERE WERE 23 FEWER FATALITIES, DOWN TO 153, IN THESE STATES IN 1988 THAN IN 1987. NATIONWIDE, THE NUMBER OF REPORTED FATALITIES HIT A NEW RECORD LOW OF 946 IN 1988, A RATE OF 5.5 FATALITIES PER 100,000 BOATS. STATE BOATING SAFETY PROGRAMS ARE A MAJOR REASON FOR THIS SUCCESS. WITH THE REAUTHORIZATION OF EXPENDITURES FROM THE BOAT SAFETY ACCOUNT OF THE AQUATIC RESOURCES TRUST FUND THROUGH 1993, I LOOK FOR CONTINUED STATE CONTRIBUTIONS TO BOATING SAFETY. OUR CHALLENGE NOW IS TO BUILD UPON THE MUTUAL SPIRIT OF SUPPORT AND COOPERATION AMONG ALL RECREATIONAL BOATING ORGANIZATIONS AND REGULATORS, SO THE WATERWAYS WILL BECOME EVEN SAFER IN THE FUTURE.

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
COMPLETE STATEMENT OF
DARRELL E. LEWIS
BEFORE THE
COAST GUARD AND NAVIGATION SUBCOMMITTEE
COMMITTEE ON MERCHANT MARINE AND FISHERIES
U. S. HOUSE OF REPRESENTATIVES
MAY 17, 1989

Mr. Chairman and members of the Subcommittee, I am Darrell Lewis, Chief of the Natural Resources Management Branch at the headquarters of the U. S. Army Corps of Engineers. I am pleased to be here this morning on behalf of the Department of the Army to discuss water safety.

Drowning is the second leading cause of accidental death in the United States. The Corps of Engineers has undertaken water safety campaigns for a number of years to reduce the number of fatalities at its lakes and other water resources projects.

Our approach to water safety is guided by four principles:

-- The Corps supports state Boating Under the Influence laws with enforcement and penalties comparable to highway DUI laws.

-- We also support mandatory Personal Floatation Device, or PFD use; common "rules of the road" regulations; water safety education activities and services from volunteers

-- We believe water safety is a matter of social attitude and constant awareness of danger.

-- And we believe people react well to a clear consensus on the need for constraints, but poorly to sudden restrictions imposed on them.

The Corps of Engineers operates 472 projects and is America's second largest federal provider of recreation services with visitors spending nearly 192 million visitor days at our projects. Only the Forest Service reports more visitors annually.

Since our visitors are attracted to the lakes, water safety is a major concern. In 1971, before the Corps had any formal water safety programs, we had 475 drownings at our projects. Since then, every district has become involved in water safety.

(Visual #1)

Our water safety campaigns have been successful. Visitation has doubled and continues to increase while the death toll decreases. Three years ago, 233 people died; two years ago, the total dropped to 202; and, last year, there was another decline -- this time to 190 deaths.

(Visual #2)

Most of the fatalities involved people who were either swimming or boating and many were alcohol-related. Other fatalities occurred because individuals dove into shallow water, skied into rocks or other submerged objects, failed to wear PFDs, went wading where they shouldn't, tripped and fell into old ditches or had similar accidents.

(Visual #3)

The greatest percentage of fatalities include individuals in the 21 to 29 age group.

We focus our campaigns on incidents such as these and return again and again to a common theme: peoples' lives are at stake and fatalities will occur if recreation seekers fail to take a few precautions around the water.

(Visual #4)

In 1986, a national water safety campaign from our headquarters in Washington was developed to supplement and enhance the outstanding water safety accomplishments at our projects. This campaign focused primarily on water safety educational products such as posters, brochures, billboard and display graphics, and public service announcements.

(Visual #5)

The purpose was to develop an annual campaign complete with the theme, "Your Safety -- Our Concern," and high quality products to support our managers, rangers and other field personnel in their water safety activities.

The Corps has been directly involved with the National Water Safety Congress through a strong and active membership and by serving in key leadership roles within the organization.

Locally, the Corps' Nashville District has been a leader in developing aggressive water safety campaigns. They have done extensive research into the circumstances of the fatalities that have occurred and targeted messages at the appropriate age and user groups.

Their efforts have included:

-- Adopt-A-School programs, particularly at the elementary level, with water safety-related games throughout annual "Little Engineers Days."

-- Extensive pre-Memorial Day radio and TV news and public affairs coverage that emphasizes the dangers of mixing alcohol with water sports.

-- Follow-on appearances on radio and TV talk and outdoor sportsmens' shows, together with public service announcements, throughout the recreation season.

-- Water safety messages on electronic sign boards at shopping centers, hotels and sports stadiums.

-- Water safety messages on milk cartons, shopping bags and in menus and periodicals, all donated by local merchants.

-- Water safety messages in telephone directories and as enclosures to telephone directories.

-- Special events such as "Blessing of the Boats" ceremonies at marinas that highlight water safety.

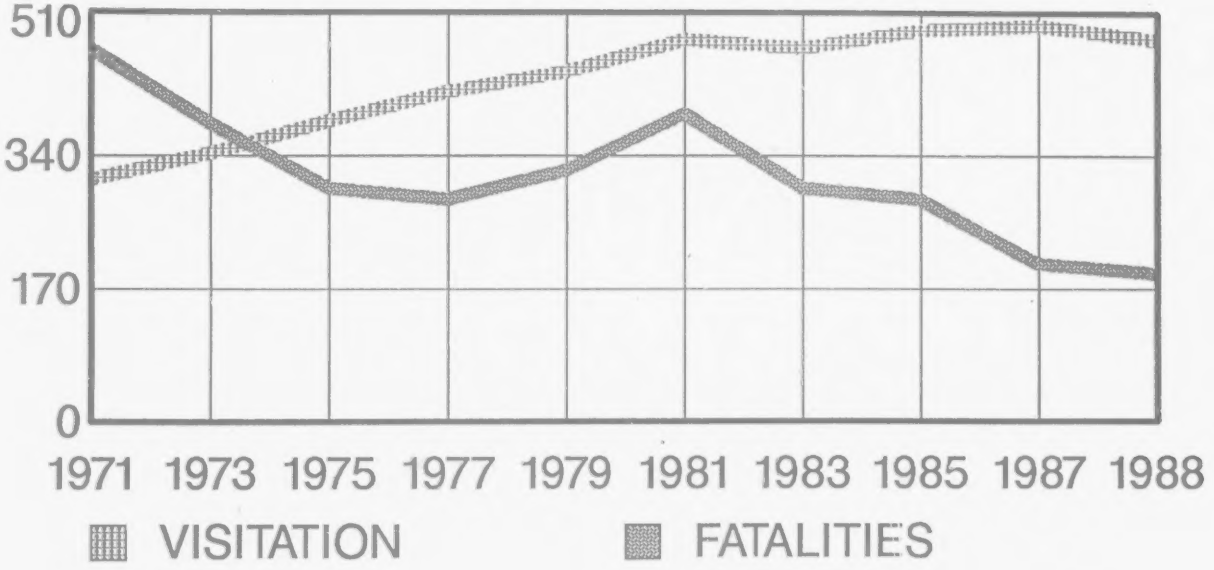
Media coverage is the visible reminder of our concern for water safety. It complements, both here in Nashville and nationwide, the work of our rangers and other personnel who are involved in water safety. You can be proud of these dedicated men and women. They are well-educated, highly motivated, articulate and enthusiastic about their work.

They can be found, day in and day out, teaching water safety skills in classrooms, conducting courtesy boat inspections, offering helpful hints at campfire gatherings and calming down parties where the participants may had one drink too many or otherwise become rowdy. Their face-to-face efforts are responsible for the success of our water safety program.

In addition, I commend the Coast Guard and the Coast Guard Auxiliary for the support we have received over the years. The auxiliary, together with other safe boating organizations, has been very active in water safety at many of our projects and has contributed significantly to reducing fatalities.

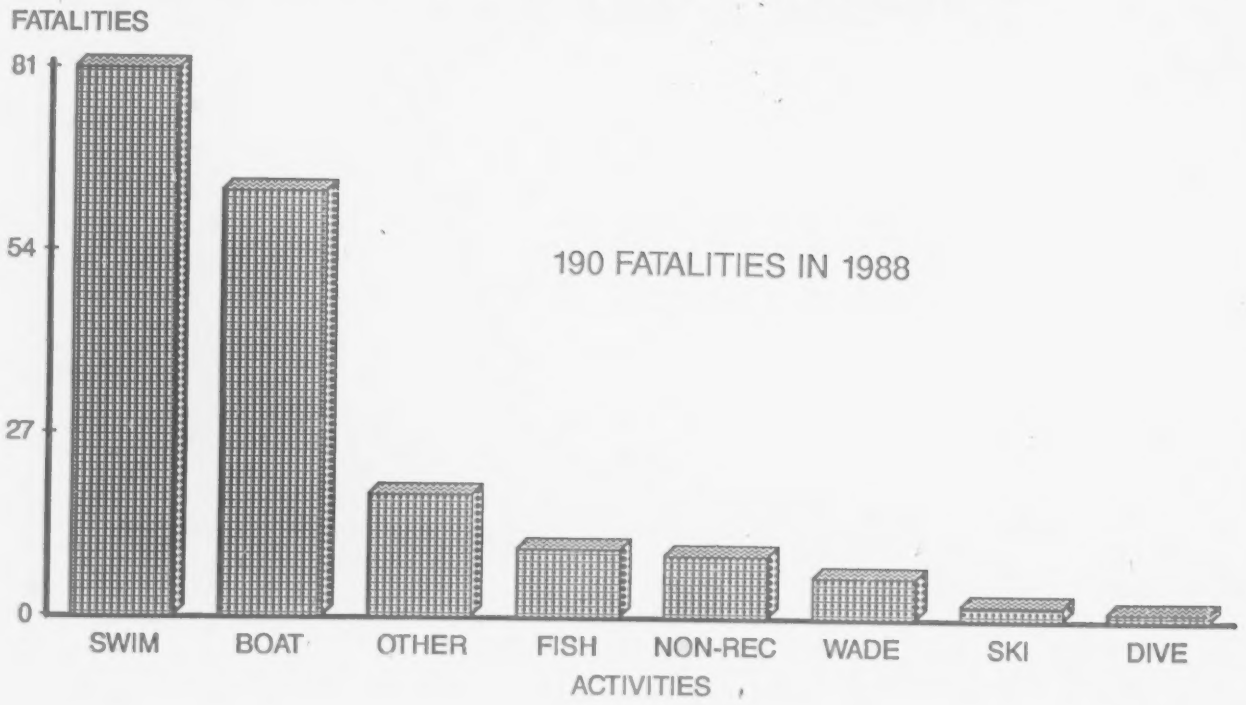
I appreciate this opportunity to testify and I'll be happy to answer your questions. I will also furnish each of you with a copy of our 1988 Water Safety Catalog. Thank you.

USACE
OVERVIEW-VISITATION vs FATALITIES



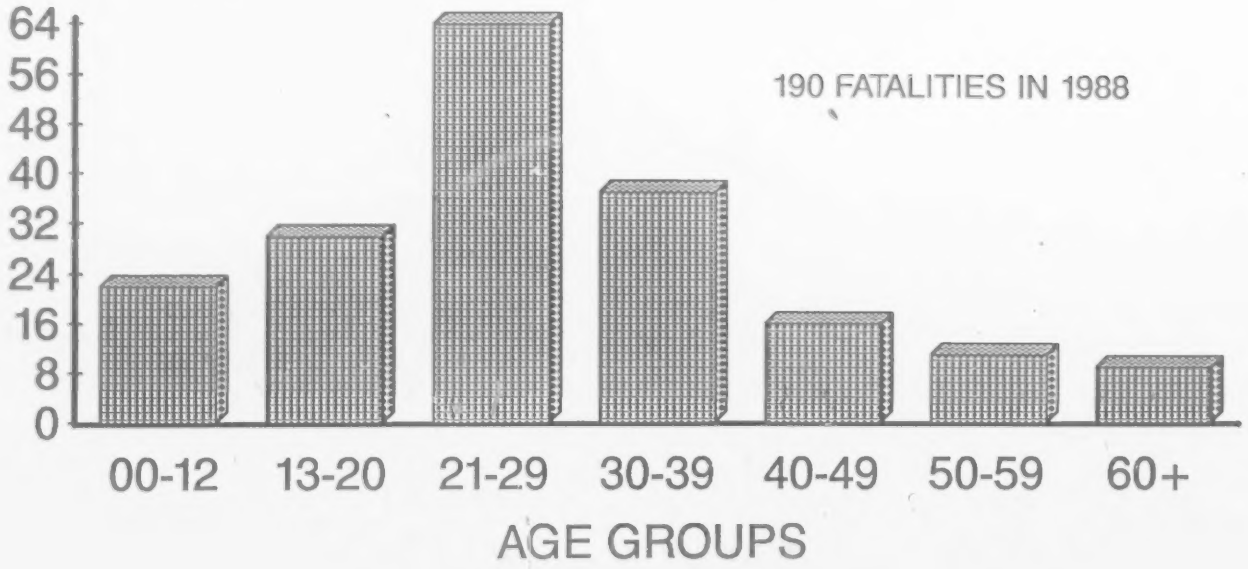
VISUAL # 1

USACE
PUBLIC FATALITIES BY ACTIVITIES-1988



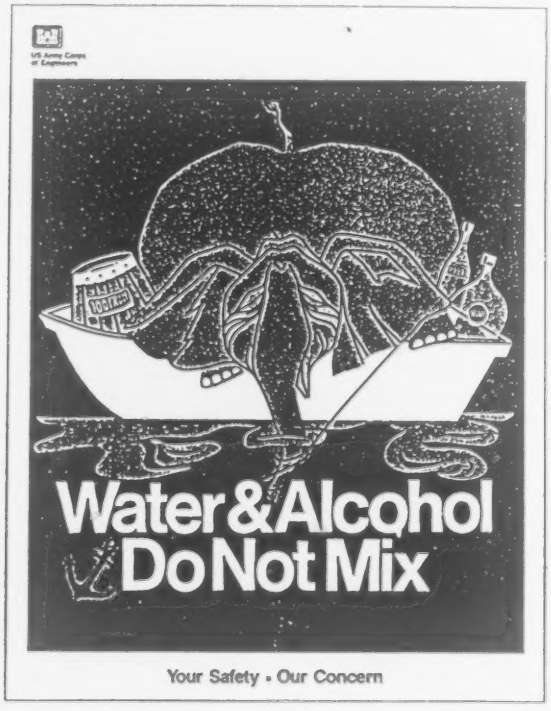
VISUAL # 2

USACE
PUBLIC FATALITIES BY AGE-1988



VISUAL # 3

Visual # 4



Visual # 5

NATIONAL ASSOCIATION OF STATE
BOATING LAW ADMINISTRATORS

Please reply to:

Statement of

George W. Stewart, Jr.
Director, Government Affairs

NATIONAL ASSOCIATION OF STATE
BOATING LAW ADMINISTRATORS

Before the

COAST GUARD AND NAVIGATION SUBCOMMITTEE

of the

U.S. HOUSE OF REPRESENTATIVES

Re: Boating Safety Trust Fund
For FY'90

Secretariat: The Council of State Governments, Iron Works Pike, P.O. Box 11910, Lexington, KY 40578, (606) 252-2291

Mr. Chairman and Members of the SubCommittee:

I am George Stewart, Director, Government Affairs, National Association of State Boating Law Administrators. Our association is pleased to provide input into your hearing regarding the State Boating Safety Trust Fund Authorization/ Appropriation.

Mr. Chairman, when the Sportfishing and Boating Enhancement Act of 1984 was passed, creating the Aquatic Resources Trust Fund, our association recognized this as a milestone legislation in directing support to "our boating public" with the tax this group pays on marine fuel used in motorboats. In previous testimony, we applauded the Congress on their farsighted approach to the needs of this user group, without placing a burden on the general taxpayer.

Our association notes with pleasure that the Aquatic Resources Trust Fund, which has come to be widely known as the Wallop-Breaux Fund was reauthorized in the Second Session of the 100th Congress for 5 years, with $60 million authorized for the first two years and $70 million the next three years. The funds are to be equally divided between the states and the Coast guard to defray their costs for services to the recreational boater. It is further noteworthy that the boating safety funds are a "user fee" paid by boaters to defray the cost of government services that uniquely benefit the recreational boating public. These funds are for boaters, financed by boaters, and demonstrates that

the user fee concept is working well. We feel strongly that these funds should be returned to the states as provided for in the law. To do otherwise, in our opinion, would not be in keeping with the "user fee concept".

The federal agency administering these "user fee" trust funds to the states is the U.S. Coast Guard within the Department of Transportation. We are obviously perplexed that the FY'90 request is only for $45 million of the authorized $60 million and this $45 million be appropriated $30 million to the Coast Guard and $15 million to the states. This is especially disheartening since the states, the industry and the boating organizations championed the program in the first place so the Coast Guard would receive part of the funding.

The supporters of the Wallop-Breaux funding visualized that the federal funds derived from this user fee paid by boaters, would go far in reducing federal involvement and shifting to the states the lead role in boating safety law enforcement and boating safety education. It is noteworthy that this train of thought follows the guidelines in the Coast Guards Roles and Mission Report that recommended the states assume the primary role in boating safety law enforcement while federal involvement should be only to insure functions meet minimum uniform requirements. We feel the states are meeting these high expectations and that our state program is one that the Congress can be proud of.

Our association values the close working relationship

we have with the U.S.Coast Guard. We feel we compliment each other in our boating safety efforts. This is important, we think, since the waters we operate on are generally "joint jurisdictional". Additionally we are satisfied with the manner in which the Coast Guard administers the trust fund monies to the states. Our principal difference each year is during the authorization/appropriation process, when the administration wants to reduce the states share of trust fund monies. We obviously take this as an affront, since it is widely known that the states are indeed taking the lead role in boating safety.

Initially, the federal boat safety funds were authorized $45 million with $30 million to the states and $15 million to the Coast Guard. Our association along with the many organizations that make up the American League of Anglers and Boaters strongly supported legislation to raise the boating safety authorization/appropriation to $60 million for FY'89 and '90 and $70 million for FY'91,'92 and '93 with the funds split 50-50 between the states and the Coast Guard. This would raise the Coast Guards authorization/appropriation from $15 million to $30 million for two years and then on to $35 million the next three years, the same as the states share of these user fee funds. It was our desire that this would avoid further efforts to reduce our state funds. This hasn't happened and obviously, we are in a "catch 22" situation where we are recognized as doing a superb job and at the same time see an effort being made to take away half of our funds authorized to get the job done.

Attached to my testimony is the allocations of Wallop-Breaux funding for the state recreational boating safety program for FY 1989. You can see the adverse impact that a 50 percent reduction will have on the states.

The major problem we have, is dealing with the uncertainty over federal funding year to year. It makes it difficult to prudently budget for long term commitments to program improvements with any certainty. We therefore cannot over-emphasize that stability is needed, if the true fruits of Trust funding are to be realized.

Attached also is the overall expenditures for both state and federal for 1972 to 1989. We think it is noteworthy that the Coast Guard boating safety resources in the states at $30 million a year for the years 1975 through 1980 but dropped to zero in 1981. This reduction on the part of the Coast Guard was primarily a result of their removal of the Boating Safety Detachment Teams from the nations waters. The states, I might add, readily picked up this additional responsibility. Especially noteworthy from this overall expenditure is the fact that the states matching share of funding has steadily increased from $16,480,000 in 1972 to $120,000,000 in 1989.

Allowing the states to recoup the federal marine fuel tax that boaters pay on marine fuel used in motorboats is a prime example of the boat user fees helping the user. With these funds the states have willingly assumed a major share of what is logically and statutorily a joint responsibility. As shown in the steady increase in state funding since 1972

and picking up the slack on removal of the Coast Guards Boating Safety Detachment teams, we feel the states have shown credibility, consistency and resources to reach the boating public. The states have concentrated on establishing an administrative infrastructure, purchase equipment and promote the education and enforcement techniques to stimulate increased boating awareness, and thereby decrease fatalities. believe that increased state effort should result in vings to the federal government rather than inordinate ditional costs, which would emanate from state curtailment ould funding be decreased.

In summary, we are proud of the states use and effectiveness of the federal boat safety funding and feel that our waterway patrols are highly visible on our nations waterways. We have many times received praise from the U.S.Coast Guard, Industry and the various boating organizations as well as the boating public we serve. To keep the momentum, we ask the support of this SubCommittee for $60 million authorization/ appropriation for fiscal 1990 and this be split 50-50 between the states and the U.S. Coast Guard, the same as we received in fiscal 1989.

THANK YOU

STATE RECREATIONAL BOATING SAFETY PROGRAM - As [illegible]

Federal Boat Safety Act of 1971

FUNDED BY GENERAL REVENUES OF DEPT. OF TREASURY

	State Program Authorization	State Amount Appropriated	Percent of Authorization	Dedicated CG Boating Safety Resources to the States	Total Federal Dollars from General Fund	State Matching Funds	Total Program Funds	Fed % Total Funds	State % Total Funds
1972	$7,500,000	$3,000,000	40.0%	$25,500,000	$36,500,000	$16,450,000	$69,480,000	57.6%	23.7%
1973	$7,500,000	$4,500,000	60.0%	$27,500,000	$32,000,000	$21,141,333	$56,141,333	57.0%	37.7%
1974	$7,500,000	$3,500,000	46.7%	$29,000,000	$22,500,000	$25,725,952	$62,225,952	52.2%	41.4%
1975	$7,500,000	$5,790,000	77.2%	$30,000,000	$25,790,000	$22,829,511	$70,529,511	50.7%	41.4%
1976	$7,500,000	$7,240,000	96.5%	$30,000,000	$37,240,000	$34,898,259	$72,398,259	51.4%	48.2%
1977	$7,500,000	$5,790,000	77.2%	$30,000,000	$25,790,000	$28,[illegible]676	$75,[illegible]676	47.4%	50.3%
1978	$7,500,000	$5,790,000	77.2%	$30,000,000	$25,790,000	$39,709,295	$77,299,295	46.4%	51.4%
1979	$7,500,000	$5,000,000	66.7%	$25,000,000	$25,000,000	$41,377,238	$75,877,238	44.4%	53.3%
	$60,000,000	$40,610,000	67.7%	$222,000,000 (1)	$277,610,000	$250,209,164	$547,389,164	50.7%	46.2%

Recreational Boating Safety and Facilities Improvement Act of 1980

FUNDED BY MOTORBOAT FUEL TAXES (USER FEES)

1984 Wallop/Breaux amendments created - Aquatic Resources Trust Fund - Boat Safety Account - 26 USC 9502(c)(1)
Deleted - Facilities Improvement Program & Authorized Funding for Coast Guard

	State Program Authorization	State Amount Appropriated	Percent of Authorization	Dedicated CG Boating Safety Resources to the States	Coast Guard Operating Exp by Fuel Taxes	Fuel Taxes Funding State Progm & Coast Guard	State Matching Funds	Total Program Funds	Fed % Program Funds	State % Program Funds
1980	$10,000,000	$0	0.0%	$30,000,000	Not Authorized	$0	$52,300,000	$52,300,000	0.0%	[illegible]
1981	$10,000,000	$0	0.0%	$0	Not Authorized	$0	$60,000,000	$60,000,000	0.0%	[illegible]
1982	$10,000,000	$0	0.0%	$0	Not Authorized	$0	$62,449,915	$62,449,915	0.0%	[illegible]
1983	$15,000,000	$12,500,000	83.3%	$0	Not Authorized	$13,560,000	$66,348,250	$79,048,250	15.8%	[illegible]
1984	$20,000,000	$13,125,000	65.6%	$0	Not Authorized	$13,625,000	$71,178,038	$84,803,038	16.1%	[illegible]
1985	$30,000,000	$13,750,000	45.8%	$0	$15,000,000	$28,750,000	$66,758,182	$95,508,182	17.1%	[illegible]
1986a	$30,000,000	$28,710,000	95.7%	$0	$14,295,000	$43,065,000	$85,511,263	$114,221,263	25.1%	[illegible]
1987	$30,000,000	$30,000,000	100.0%	$0	$13,000,000	$48,660,000	$87,737,833	$117,237,833	25.6%	[illegible]
1988a	$30,000,000	$21,375,000	71.3%	$0	$21,600,000	$42,975,000	$115,204,150	$136,579,150	15.7%	[illegible]
1989	$30,000,000	$30,000,000	100.0%	$0	$30,000,000	$60,000,000	$120,000,000	$150,000,000	20.0%	[illegible]
	$225,000,000	$149,960,000	66.6%	$30,000,000	(2) $98,955,000 (3) $1,627,000	$298,915,000 $1,627,000	$787,187,682	$937,147,287	16.0%	[illegible]
						$100,582,000	$250,542,000			

(1) CG Search & Rescue Costs Not Included
(2) Offset of CG Search and Rescue Costs
(3) Offset of CG Administration Costs (State Program)

FY1701 & FY 1988 - Gramm/Rudman/Hollings reductions
FY1989 - Estimated State matching
Fuel Taxes - Estimated annual receipts - $508 million —
- Boat Safety Account - $60 million
- Land & Water Conservation Fund - $1 million
- Sportfish Restoration Account (SFA) - Balance of Tax receipts

Source - State Affairs Branch
U. S. Coast Guard

STATE RECREATIONAL BOATING SAFETY PROGRAM

STATE	Before W/B FY 1983	Before W/B FY 1984	Before W/B FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
ALABAMA	$264,678.00	$264,978.00	$285,199.00	$660,021.00	$603,553.00	$418,169.00	$524,231.00
ARIZONA	$156,294.00	$169,138.00	$177,636.00	$387,273.00	$344,809.00	$265,602.00	$251,451.00
ARKANSAS	$226,652.00	$220,479.00	$242,495.00	$473,600.00	$545,712.00	$382,102.00	$239,284.00
CALIFORNIA	$569,664.00	$907,760.00	$798,399.00	$1,682,130.00	$1,930,041.00	$1,271,997.00	$1,509,704.00
COLORADO	$112,747.00	$116,021.00	$124,502.00	$271,691.00	$275,974.00	$193,614.00	$259,242.00
CONNECTICUT	$206,149.00	$146,914.00	$169,501.00	$350,394.00	$336,426.00	$258,147.00	$340,759.00
DELAWARE	$131,059.00	$124,508.00	$134,832.00	$272,877.00	$291,599.00	$269,738.00	$270,741.00
DIST OF COL	$153,261.00	$148,869.00	$149,889.00	$284,249.00	$254,746.00	$191,922.00	$271,987.00
FLORIDA	$389,366.00	$606,831.00	$724,874.00	$1,439,786.00	$1,174,076.00	$993,256.00	$2,008,590.00
GEORGIA	$276,424.00	$256,144.00	$277,666.00	$607,125.00	$632,228.00	$444,630.00	$573,250.00
HAWAII	$94,946.00	$113,417.00	$144,487.00	$321,305.00	$219,026.00	$230,833.00	$309,205.00
IDAHO	$129,436.00	$129,954.00	$133,465.00	$297,785.00	$238,276.00	$193,662.00	$282,537.00
ILLINOIS	$230,747.00	$215,281.00	$236,230.00	$510,415.00	$549,944.00	$360,992.00	$481,952.00
INDIANA	$243,743.00	$195,645.00	$215,984.00	$443,260.00	$454,270.00	$326,497.00	$466,203.00
IOWA	$224,864.00	$212,783.00	$247,894.00	$484,736.00	$505,176.00	$329,240.00	$442,375.00
KANSAS	$125,681.00	$116,449.00	$129,132.00	$280,496.00	$279,276.00	$192,579.00	$273,623.00
KENTUCKY	$212,914.00	$184,705.00	$210,333.00	$474,225.00	$433,420.00	$322,738.00	$421,125.00
LOUISIANA	$269,541.00	$376,597.00	$295,607.00	$648,680.00	$691,339.00	$445,815.00	$556,147.00
MAINE	$149,658.00	$136,577.00	$154,395.00	$309,454.00	$244,682.00	$233,245.00	$329,456.00
MARYLAND	$480,591.00	$418,723.00	$720,783.00	$1,356,420.00	$1,557,756.00	$1,169,031.00	$1,618,168.00
MASSACHUSETTS	$207,715.00	$235,092.00	$244,366.00	$558,220.00	$572,737.00	$397,230.00	$505,242.00
MICHIGAN	$439,758.00	$529,336.00	$556,685.00	$1,215,350.00	$1,113,456.00	$797,278.00	$1,174,582.00
MINNESOTA	$479,663.00	$410,948.00	$518,640.00	$1,069,185.00	$1,066,761.00	$743,933.00	$1,055,220.00
MISSISSIPPI	$190,470.00	$222,383.00	$218,090.00	$425,681.00	$461,922.00	$315,322.00	$427,706.00
MISSOURI	$296,719.00	$282,367.00	$328,590.00	$698,538.00	$724,524.00	$500,425.00	$639,982.00
MONTANA	$95,622.00	$97,341.00	$109,837.00	$230,250.00	$232,950.00	$169,228.00	$225,906.00
NEBRASKA	$104,044.00	$97,566.00	$110,399.00	$83,000.00	$231,196.00	$163,695.00	$229,039.00
NEVADA	$110,792.00	$100,972.00	$113,427.00	$262,347.00	$248,005.00	$191,115.00	$255,242.00
NEW HAMPSHIRE	$100,031.00	$97,379.00	$106,787.00	$229,804.00	$236,721.00	$167,434.00	$234,977.00
NEW JERSEY	$286,742.00	$243,699.00	$335,665.00	$703,746.00	$754,421.00	$521,299.00	$775,120.00
NEW MEXICO	$102,166.00	$99,395.00	$107,582.00	$233,612.00	$230,694.00	$177,478.00	$228,179.00
NEW YORK	$703,412.00	$556,749.00	$707,467.00	$947,557.00	$1,018,957.00	$703,892.00	$972,785.00
NORTH CAROLINA	$225,697.00	$215,651.00	$225,517.00	$477,683.00	$498,536.00	$368,152.00	$524,511.00
NORTH DAKOTA	$97,884.00	$94,322.00	$102,271.00	$210,357.00	$213,982.00	$156,595.00	$216,149.00
OHIO	$390,762.00	$263,132.00	$470,360.00	$1,013,735.00	$1,088,427.00	$676,116.00	$769,537.00
OKLAHOMA	$261,897.00	$256,743.00	$270,902.00	$545,640.00	$522,990.00	$354,728.00	$550,579.00
OREGON	$211,781.00	$211,311.00	$203,765.00	$436,772.00	$442,960.00	$338,454.00	$440,227.00
PENNSYLVANIA	$318,267.00	$287,107.00	$313,334.00	$726,693.00	$689,889.00	$433,841.00	$638,276.00
RHODE ISLAND	$103,661.00	$91,593.00	$98,402.00	$211,159.00	$212,630.00	$151,793.00	$220,926.00
SOUTH CAROLINA	$188,862.00	$230,871.00	$291,438.00	$598,602.00	$617,271.00	$442,292.00	$582,442.00
SOUTH DAKOTA	$101,079.00	$92,105.00	$99,745.00	$215,002.00	$220,739.00	$152,527.00	$212,139.00
TENNESSEE	$223,545.00	$197,099.00	$209,768.00	$467,556.00	$427,976.00	$306,173.00	$449,179.00
TEXAS	$637,155.00	$584,651.00	$603,075.00	$1,305,017.00	$1,199,149.00	$822,590.00	$1,140,422.00
UTAH	$120,543.00	$122,620.00	$136,846.00	$286,850.00	$308,774.00	$220,051.00	$298,215.00
VERMONT	$96,026.00	$91,026.00	$99,128.00	$217,448.00	$217,443.00	$154,395.00	$215,569.00
VIRGINIA	$163,450.00	$172,448.00	$243,787.00	$417,510.00	$427,686.00	$310,218.00	$401,184.00
WASHINGTON	$0.00	$170,226.00	$168,162.00	$472,885.00	$352,767.00	$251,960.00	$353,356.00
WEST VIRGINIA	$111,110.00	$104,753.00	$118,799.00	$226,127.00	$230,371.00	$154,214.00	$227,080.00
WISCONSIN	$344,414.00	$335,410.00	$365,556.00	$779,879.00	$777,400.00	$553,848.00	$743,395.00
WYOMING	$88,777.00	$86,612.00	$90,611.00	$129,000.00	$202,626.00	$143,479.00	$201,059.00
AMERICAN SAMOA	$75,820.00	$73,335.00	$80,899.00	$172,869.00	$172,893.00	$120,990.00	$169,594.00
GUAM	$83,190.00	$0.00	$0.00	$0.00	$173,424.00	$125,781.00	$170,020.00
PUERTO RICO	$102,069.00	$93,500.00	$108,449.00	$148,856.00	$225,532.00	$167,273.00	$219,227.00
NORTHERN MAR	$77,814.00	$73,348.00	$80,928.00	$172,979.00	$173,358.00	$121,217.00	$214,278.00
VIRGIN ISLANDS	$87,919.00	$76,632.00	$87,580.00	$186,881.00	$175,432.00	$122,843.00	$181,692.00
STATE TOTAL	$12,215,000.00	$11,874,985.00	$13,100,000.00	$27,625,323.00	$28,500,000.00	$19,947,500.00	$27,900,000.00
COAST GUARD				$15,600,000.00	$30,600,000.00	$22,027,000.00	$29,600,000.00
Note: FY 1988 & 1989 subject to Gramm/Rudman/Hollings				$43,225,323.00	$59,100,000.00	$41,974,500.00	$57,500,000.00

NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

Please reply to:

George W. Stewart, Jr.
Director, Government Affairs
National Association of State
Boating Law Administrators
96 McBry Dr.
Dover, DE 19901

May 23, 1989

The Honorable W.J.Tauzin
Chairman, Coast Guard and Navigation Sub-Committee
United States House of Representatives
Washington, DC 20515

Dear Representative Tauzin:

During the hearing of your SubCommittee in Nashville on 19 May 1989, Congressman Clement asked me to respond to the following question for the hearing record.

> Mr. Stewart, Your organization passed a resolution establishing guidelines for mandatory boat safety education. Can you tell us how many states have enacted mandatory education?
>
> Answer- The State of Maryland has enacted mandatory boat safety education following the National Association of State Boating Law Administrators guidelines. Eleven other states and the District of Columbia have some form of operator certification with varying age and legal requirements.

If our Association can be of further assistance please let us know.

Sincerely,

George W. Stewart, Jr.

GWS/cs

20-658 0 - 89 - 4

Statement of

DIRECTOR D. N. ELLINGSEN

FLORIDA MARINE PATROL

Department of Natural Resources
3900 Commonwealth Boulevard, Room 716
Tallahassee, Florida 32399
(904) 488-5757

Before the

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

of the

U.S. HOUSE OF REPRESENTATIVES

Re: Federal Recreational Boating Safety Program

May 19, 1989

MR. CHAIRMAN AND MEMBERS OF THIS SUBCOMMITTEE:

I am Don Ellingsen, Director of the Florida Marine Patrol. I am also Chairman of the Boating Accident Committee of the National Boating Safety Advisory Council to the U. S. Coast Guard and a member of the Boating Accident Investigation, Reporting and Analysis Committee (BAIRAC) of the National Association of State Boating Law Administrators.

My statement deals with a serious problem developing on our nation's waterways--the critical personal injury or fatal boating accident resulting from high speed collisions coupled with law enforcement's inability to properly investigate them.

Historically, the fatal boating accident in the United States was a capsizing, a fall overboard or the result of a fire or an explosion. Through the safety standards developed as a result of the Boating Safety Act of 1971, boats themselves have become far safer and we are seeing a decrease in the traditional type of fatality, however, the boating law administrators are quite concerned about the sharp increase in serious, trauma type injuries as a direct result of collisions. The large majority of all boating accidents are collisions, either with another boat or a solid or a fixed object. The expertise that has been developed over the past 50 years in the investigation of automobile accidents is totally lacking when it comes to investigating a boating accident.

In 1983, I addressed this subcommittee in Washington and requested that the U. S. Coast Guard develop a boating accident investigation program. A similar request came from the National Association of State Boating Law Administrators. As a result, the U. S. Coast Guard, through a grant to Underwriters Laboratories Marine Division, developed a comprehensive boating accident investigation manual in late 1986.

In 1987, the BAIRAC committee met and put together a seminar to train marine law enforcement officers in boating accident investigation. During 1988, the seminar was put on at eight locations around the country through the Coast Guard grant. Approximately 250 marine law enforcement officers received training in the proper methods of investigating a boating accident. In addition to the Coast Guard grant programs, the State of Florida trained 24 Florida Marine Patrol Officers in boating accident investigation.

The Florida course was more intensive than the seminars under the Coast Guard grant. It actually included some crash testing of boats. In 1989, the U. S. Coast Guard grants program is being continued and eight more seminars will be put on around the country. This year the Florida Marine Patrol again contracted with Underwriters Laboratories to put on the extended two week course to train Florida Marine Patrol and Florida Wildlife Officers in advanced boating accident investigation. The course again included actual on—

the water crash testing of boats. The information gained from this testing has proven to be invaluable in training the investigator.

The BAIRAC committee met during the training program for the Florida Marine Patrol in April of 1989 and observed firsthand the on the water crash testing and all members were in agreement that this type of program must be continued and advanced if we are ever going to provide the proper level of training required by our law enforcement officers. Such testing is quite expensive and the only way it can be properly accomplished would be through an additional grant from the Coast Guard to a facility such as Underwriters Laboratories Marine Division.

It is currently the goal of the BAIRAC committee to develop our boating accident investigator seminars at three levels. Level one would be for all marine law enforcement officers and would include the basic skills to handle the average boating accident investigation and to be capable of being a first responder to a very serious accident. The level two investigation program would be for the major type of boating accident. This would be the person who would come in and do the complete follow through investigation. The third level of the program would be an instructor program or a train the trainer approach.

We are often asked why is it so important to investigate boating accidents. There are several reasons: 1) without doing a professional and thorough investigation of a boating accident, we may never learn the real cause of that accident and we will never learn what can be done to prevent further accidents, 2) is to prosecute criminal activity that causes boating accidents, 3) and perhaps most important is the fact that we have a duty to the citizens of our respective states to conduct a thorough and professional investigation of their boating accident. A citizen may be the victim of criminal activity and end up in a civil lawsuit trying to recover damages. If our officers have not been properly trained and do not do a good investigation, when we get into court trying to protect that citizen's rights, we have really let them down. The only way we can develop the level of expertise that is required is through the advanced training programs that we are trying to develop at this time.

In summary, when I testified before this committee in 1983, we did not have a boating accident investigation training program. On a scale of one to ten, we were about a 0.5. Today, we are probably about a three on that scale of one to ten. I would hope through continued funding of the program and our continued efforts at working towards development of a professional boating accident investigation program that I can come back here in a few years and tell you that we are at about an eight or nine level on that scale when it comes to boating accident investigation.

We thank you for your past support of this vital program. NASBLA is proud of the states' use and effectiveness of the federal boat safety funding and feel that our waterway patrols are highly visible on our nation's waterways. We have many times received praise from the U. S. Coast Guard, industry and various boating organizations as well as the boating public we serve.

To keep the momentum, we ask the support of this subcommittee for a $60 million authorization/appropriation for Fiscal Year 1990 and that this be split 50/50 between the states and the U. S. Coast Guard, the same as we received in Fiscal Year 1989.

State of Louisiana

VIRGINIA VAN SICKLE
SECRETARY

DEPARTMENT OF WILDLIFE AND FISHERIES
POST OFFICE BOX 98000
BATON ROUGE, LA 70898
PHONE (504) 765-2800

BUDDY ROEMER
GOVERNOR

STATEMENT OFFERED BY LIEUTENANT COLONEL CHARLIE CLARK
LOUISIANA DEPARTMENT OF WILDLIFE & FISHERIES
BEFORE THE
COAST GUARD AND NAVIGATION SUBCOMMITTEE
OF THE
U.S. HOUSE OF REPRESENTATIVES

RE: BOATING SAFETY TRUST FUND
FOR FY90

AN EQUAL OPPORTUNITY EMPLOYER

Louisiana's Boating Safety program formalized with the authorization and appropriation of Federal Financial Assistance. Because of this positive commitment to the boaters of Louisiana through the Federal Government we began building a program aimed initially at complimenting existing Coast Guard services. As we soon found out a boating safety program is not administered on a part-time basis.

Louisiana's present boating program utilizes some 235 people involved in the administrative, Educational and Law Enforcement processes. We supply services for over 300,000 pleasure boats with an estimated boating public of 1.9 million people. Our services range from accident reconstruction, search and rescue, Enforcement of the Boating Safety Act to certified classroom instruction. Geographically we supply these services wherever our boaters decide to enjoy their sport.

But even with our most diligent effort in administering this program, Louisiana still faces an uphill battle in curtailing boating related fatalities. Last year Louisiana lost 61 people in boating related deaths with another 69 injuries being recorded. This was in spite of the increased educational campaign and issuance of nearly 9,000 boating citations, including rigid enforcement of operating under the influence in problem areas. Nearly every weekend we address the morbid results of operating under the influence, reckless operation or non-compliance to safety regulations. This is not an indication of lack of quality

in our program but rather a perfect indicator of the quantity of services necessary to provide public safety, through both enforcement and educational aspects. Standing side-by-side with the U.S. Coast Guard in our coastal areas and standing alone in the uplands our plans have to include the current level of services with a near future plan of broad base expansion.

As you are well aware goal setting and strategy planning demand known funding sources at constant levels. The current economic situation in the State of Louisiana does not allow for unforeseen cuts in revenue, which means, loss of funding relates proportionally to loss of services. Hopefully we will not have to endure this situation and the boaters of Louisiana will not be denied what is rightfully theirs, an expectation that a basic level of knowledge and protection exist on our waterways.

I urge you to reward the States of our nation for the commendable accomplishments of our programs. Full authorization/appropriation of $60 million for fiscal 1990, split 50-50 between the states and the U.S. Coast Guard will continue what I believe to be the best cost/productive program in the nation.

To apprise the Sub-Committee of the commitment Louisiana has made to our Boating Safety Program we offer the following collateral on our $589,647 share held in the $60 million appropriation.

I.	Rolling Fleet of 206 vehicles valued at	$ 2,678,000
	A) Operating cost and supplies	302,000
II.	Vessel Fleet of 192 boats valued at	2,136,000
	A) Operating cost and supplies	368,000
III.	Motorboat Registration Program Budgeted at	215,177
IV.	Educational Program Budgeted at	143,000
	A) Eight certified instructors	
	B) One hundred and six (106) volunteer instructors	
V.	Law Enforcement Program Budgeted at	2,032,025
	A) Statewide communications network	1,200,000
	B) Aircraft Fleet of 5 planes	1,113,000
	1. Operating services and supplies	410,000
	C) Two hundred and six officers (206) trained in	
	1. Intoxilizer 500 breath testing	
	2. Accident investigation and reconstruction	
	3. Search and Rescue	
	4. First Aid	
	5. Field Sobriety Testing	
	6. Boating Safety Patrol	
	TOTAL	$ 10,597,202

Statement from the Tennessee Wildlife Resources Agency before the subcommittee on Coast Guard and Navigation regarding recreational boating and state programs. By Ed Carter, Assistant Regional Manager, Tennessee Wildlife Resources Agency. Friday 19 May 1989; Nashville, Tennessee.

Chairman Tauzin; members of the committee:

I am Ed Carter, Assistant Regional Manager for the Tennessee Wildlife Resources Agency. I appreciate this opportunity to express how important the entire spectrum of recreational boating is to Tennesseans. We have over 700,000 acres of water and 28 major reservoirs. There are 19,000 miles of warm and cold water streams that when coupled with our reservoirs provide our residents with abundant opportunity to participate in a wide variety of boating interests. Our records reflect a quarter of a million currently registered boats which attests to the fact that Tennesseans are taking advantage of the resources provided to them.

Because of the enormous interest in boating and the variety of user groups which it spawns, a responsibility is eminent upon the State to provide access, assistance, and control when necessary. Since 1965 that duty has been the responsibility of the Tennessee Wildlife Resources Agency. We maintain 160 launching ramps, provide educational materials and courses, and employ 155 full time enforcement officers who are assisted by

Staff and part-time officers during peak times. It is our goal to provide the opportunity for Tennesseans to enjoy safe and enjoyable boating recreation.

However, since 1978, 343 people have lost their lives in boating accidents and hundreds more have been injured. While these statistics are tragic, there is still a bright side. Over the same time period given above (1978 until present) the fatality rate has been declining at a steady rate with this past year reflecting the lowest total during the last 24 years. That is even more encouraging when considering that during the last 10 years alone, the number of currently registered boats in Tennessee has increased by 41,000 vessels.

We attribute the declining fatality rate to several factors. A better informed public through the efforts of several state, federal, and private agencies or industries has no doubt played a vital role. Formal boating education classes have been instituted in some schools which is taught in varied curriculum ranging from physical education and drivers training to English. We have funded instructor training programs for school teachers and provided them with written materials to establish boating programs in their own systems. Home study courses have been developed including workbooks and videos which are available to the public at no charge. Through a grant from the federal boating money, a computer based video "game" has been developed and aimed at seventh grade students. The game challenges

students on basic boating ideas and principles while entertaining them as well. Our plans have been approved to implement this program statewide.

Increased on-the-water enforcement efforts have also added their share to the decrease in fatalities. We have purchased well-equipped and highly visible boats and have targeted our available man power to critical time and day periods based on data gathered from accident analysis. With the help of the news media we launched a campaign against boating under the influence of alcohol and drugs. That effort is really beginning to pay off and the Tennessee State Legislature this year passed what is probably the toughest "boating under the influence" law in the nation.

A spirit of cooperation also exists between our Agency and other boating affiliated organizations. Here in the Nashville area and a neighboring county, the U.S. Coast Guard Auxiliary teaches a special class for the local courts for people convicted of minor boating violations. The Auxiliary also assists in on-the-water duties by towing disabled vessels and helping to control traffic at special water events. Their assistance frees our enforcement officers to cover trouble spots and also continue routine patrols.

Local water safety councils have been formed including the Tennessee Valley Authority, the U.S. Army Corps of Engineers,

power companies, marina operators, and interested citizens. Working as a unit they address issues of a local nature to the betterment of boating on a particular reservoir or river.

In 1979 Tennessee's program was dealt a severe blow when funding was at a critical low. As a self-funding program, the income could not meet the demands placed on the program by the public. In order to keep our personnel on the water, the complete launching ramp program was cut as well as the formal education programs. The entire boating public suffered almost immediately. But with increased state funding and federal assistance our program began to regain its former momentum and over the last few years has made remarkable strides.

Recently a citizen task force comprised of a cross section of boating interests was formed. They have assessed our needs, our current status and have offered sound and logical plans for the future. We plan to go forward with those ideas and suggestions with the utmost urgency.

Throughout the country, and especially here in the southeast, I firmly believe that recreational boating has just surged to the forefront. It is now recognized as not only a broad-based industrial link of manufacturers, dealers, and associated businesses but also one of the most accessible and sought after forms of family recreation.

We have a wonderful opportunity here in Tennessee. The citizens of our state recognize their assets and have given us the direction and the mandate to foster the development, use and enjoyment of all the waters of the State. We have shown that well-funded and soundly implemented programs will work. It is imperative that these programs continue with expansion where necessary so that we may react rationally and efficiently to the demands so clearly given us.

I appreciate very much the opportunity to deliver these remarks on behalf of the State of Tennessee. Your continued support of these vital programs will be greatly appreciated.

Statement of

MICHAEL SCIULLA, VICE PRESIDENT

BOAT OWNERS ASSOCIATION of THE UNITED STATES
BOAT/U.S.

Washington National Headquarters
880 South Pickett Street, Alexandria, Virginia

Before the

COAST GUARD SUBCOMMITTEE
of the
MERCHANT MARINE AND FISHERIES COMMITTEE

U.S. HOUSE OF REPRESENTATIVES

Re: Recreational Boating Safety

May 19, 1989 - Nashville, Tennessee

Mr. Chairman and Members of the Subcommittee:

I am Michael Sciulla, Vice President of Boat Owners Association of The United States. With nearly 300,000 members from all 50 states, BOAT/U.S. is the largest national organization of recreational boat owners in the country. I appreciate the opportunity to appear before the Subcommittee to express our concerns on a number of pressing issues facing recreational boat owners.

The first issue I would like to raise is our concern that legislation passed by Congress to protect boat owners from unsafe and defective boats is not being properly administered by the Coast Guard.

Section 15 of the Federal Boat Safety Act of 1971 gave the Coast Guard the authority to require manufacturers to repair and/or replace a defective boat if it creates "a substantial risk of personal injury to the public." This landmark legislation was approved after four years of extensive deliberation by the House Merchant Marine Committee, the House Government Operations Committee and the Senate Commerce Committee.

Mr. Chairman, it has been our experience over the past two decades that the Coast Guard has failed to make adequate and independent investigations of legitimate consumer complaints. It continually seeks to put the burden of proof on the boating consumer and increasingly accepts at face value, brief self-serving statements from manufacturers regarding these complaints.

For example, despite reports of over 200 cases of hull cracks on Chris Craft boats provided by BOAT/U.S., the Coast Guard concluded, without looking at a single boat, that there was "no common thread" linking all the cases and declared there was no defect. This decision was based, in part, on assurances given by Chris Craft officials.

Murray Chris Craft later went bankrupt due, in part, to mismanagement. Shortly after a change in management, Chris Craft admitted to structural inadequacies in at least two models and recalled most of its 1987 and 1988 25-foot Amerosports. The new corporate owners found it necessary to entirely overhaul quality control procedures. While this will hopefully produce a safer boat for new purchasers, management chose not to fully honor the outstanding warranties of existing Chris Craft owners.

In another case, the Coast Guard initially declared a recall on a 1986 sport fisherman because of engine bed failures. The recall was later dropped when the company told the Coast Guard the failures were due to owner negligence. The Coast Guard declined to send an inspector to the boat and closed the case without taking into account reports by marine surveyors and a naval architect describing structural deficiencies.

The Coast Guard also took no action when it was given a report that an entire family was sprayed with glass shards when the windshield of their 1985 Baja Boats Sport 220 shattered in its frame. The Coast Guard determined there was no "substantial risk of personal injury." The windshield was not covered by a manufacturer's warranty.

In another instance, the owner of a 15-foot center console boat was injured when he fell against the console shift lever, causing the boat to ram a dock and flip over. The engine manufacturer denied the need for neutral detent switches, which must be actively engaged for shifting to occur, on center console installations. Detents are standard on side-mounted levers to prevent just this kind of accident. Again, the Coast Guard sided with the manufacturer's explanation, no questions asked.

BOAT/U.S. has also turned over to the Coast Guard a number of cases, including several reports of boat fires caused by exhaust system failures.

One family, for example, was forced to abandon ship offshore when the rubber exhaust boot on their outdrive burned, flooding the boat. The Coast Guard again determined that there was "no substantial risk of personal injury". We have asked the Coast Guard to look into the idea of inflammable materials for exhausts systems, but have received no reply.

Several years ago, Mr. Chairman, a member of the Coast Guard's Product Assurance branch told us not to expect any "defect recall" unless a boat explodes, catches fire or someone gets killed. This narrow definition of what constitutes a "substantial risk of personal injury" is not only callous, but effectively disenfranchises the consumer of his rightful remedy - a defect recall - which requires the manufacturer to repair or replace the boat at its expense.

Furthermore, the Coast Guard has done little to expand existing safety

standards, which were minimal to begin with, to keep pace with the problems facing boating consumers.

Mr. Chairman, the Coast Guard has failed to abide by the the legislative history of the 1971 Act and the intent of Congress. When the issue of defect recalls was first included in House Report 91-1611 in 1970, the manufacturer was only required to notify the consumer of a defect and suggest ways that it could be corrected. This approach was rejected in 1971 when the Senate Commerce Committee issued its report, 92-248, the final report language for the Federal Boat Safety Act.

Regarding the fact that the bill as introduced did not require the manufacturer to correct a defect at its expense, the report states, "The Committee felt that this was a serious ommission since equity clearly requires that the manufacturer, rather than the innocent purchaser, bear this cost."

But, today, Mr. Chairman, the consumer, not the manufacturer, is often left bearing the cost for a defective boat - thanks to a Coast Guard which has clearly forgotten what the Congress intended.

It is obvious to us, Mr. Chairman, that the Coast Guard needs more explicit direction from Congress regarding the consumer protection provisions of the Federal Boat Safety Act of 1971. Like a boat with a safety defect, the Coast Guard's administration of the program should be recalled and repaired, without further expense to the consumer.

I also want to bring to your attention today four disturbing reports involving excessive use of force or destruction of property by the Customs Service or the Coast Guard.

Case #1: On March 5, the Harbor at Boot Key, a very popular anchoring spot in the Florida Keys, was invaded by 77 armed law enforcement officers, using 11 government boats. They effectively blockaded the harbor and dozens of officers from four agencies boarded boats and conducted searches. According to newspaper reports, these boat owners were intimidated by the armed officers, had their boats ransacked and were not allowed to leave the harbor until the operation was finished some six hours later. Assisting the Coast Guard were U.S. Customs, the Florida Marine Patrol and the Monroe County Sheriff's Dept.

According to a letter we have received from the Customs Service, the operation was based on intelligence from three agencies. "Customs Service sources indicated that the harbor was being used by sailboats to off-load contraband from hidden compartments. Coast Guard sources indicated that gross violations of the Marine Sanitation and Vessel Safety Act were being committed. The Monroe County Sheriff's Department had received information indicating some of the sailboats housed fugitives from justice and also contained stolen property."

What were the results of this raid and boarding of 174 vessels? Citations were issued for 18 improper marine heads, seven for expired flares, six for improper numbering or documentation, six for improper

registration, four for expired fire extinguishers, three for missing life jackets, two for sound devices and two for missing pollution placards. No arrests were made and no drugs were found.

Case #2: A 46-foot recreational boat was stopped and boarded by the Coast Guard 17 miles from Miami. The owner of the $250,000 boat was not aboard at the time because he had hired a licensed captain to deliver the boat from the Bahamas to Ft. Lauderdale after his two-week fishing trip ended in bad weather. When nothing was found except some registered guns, the captain was ordered to follow the Coast Guard. Three miles out of Port Everglades, the boat was again boarded and searched with dogs.

Once at dock in Port Everglades, another boarding party searched the boat and the captain was held at gunpoint outside for six hours. When he was finally let go, the captain saw officers boarding the boat with chain saws and powerdrills. No effort was made to contact the owner or check his background before the boat was torn apart, although the owner's wife received one call from the Coast Guard asking what kind of car her husband drove and how often he left the country.

The owner of the boat, Ralph Phillips, a South Carolina businessman who is also Rear Commodore of the Charleston Yacht Club and serves on several state commissions is struggling to come to grips with the $100,000 in damages to the boat. Floorboards were cut open when they could have been removed with a screwdriver, every cushion slashed when they open with zippers, bulkheads were cut open with chain saws and 16-inch square holes were sawed through the deck.

Not a single trace of drugs was found on the boat.

When Phillips was finally contacted, the Coast Guard merely instructed him to come and get his boat. At Port Everglades, he was kept waiting for four hours, with no apology or comment at all on the condition of his boat. He was told they "were through" with him and to leave. He was given two outdated claim forms to fill out. The boat, which had been for sale, is now worthless as he does not have $100,000 to pay for repairs.

Case #3: A Jacksonville, Florida, university professor, Craig Klein, hired a professional captain to deliver his 29-foot English-built sloop from St. Petersburg. While stopping in Stuart, Florida, for fuel, he was descended upon by a small army of sheriff's deputies and Customs officers who ransacked the cabin and drilled 16 half-inch holes through the hull of the boat.

Apparently, the police became suspicious because the recently purchased boat had old documentation papers. They also claimed their drug dogs barked suspiciously.

The captain was arrested and the boarding party used crowbars to rip out the mahogany interior woodwork, the V-berth headliner, floorboards, drawers and closets. Officers throwing parts of the boat into the cockpit missed, said Klein, and about a third of his gear was lost overboard.

While drilling the holes in the hull, these law enforcement officers succeeded in penetrating the fuel tank, spilling 25 gallons of diesel fuel into the boat. The boat was left in that hazardous condition. It is estimated that repairs will cost thousands of dollars.

Again, the owner was not on board and while officers said they tried to call him to verify ownership and destination of the boat, Mr. Klein says he was home all evening and was never called.

Case #4: Another Florida boat owner, William Lipton, was out fishing one night off the coast of Boca Raton last March. While trolling on the way back to port, out of the darkness came an unmarked "Cigarette-type" boat which followed so close it fouled his trolling line.

Without providing any identification, three "young people" on the boat came alongside and boarded his boat. They wore raincoats that said "police" on the back, but refused to give names or identification, other than to say they were "from Customs." They were all armed and Lipton says they took great pleasure in showing off their weapons.

Lipton was ordered to follow them to dock. A female officer asked him to remove the plate on his cockpit floor. She declared it a "concealed compartment". Lipton explained that it was his fuel tank. According to Lipton, she seemed confused and asked how the fuel got into the tank.

Lipton was told he would have to wait until a "drill team" arrived. While he was wondering if a band was going to appear, the officers

advised him that the "drill team" was a special group that drilled holes in boats to look for hidden compartments.

After waiting for two hours, an older gentleman arrived, looked over the boat and then apologized for the other three.

Mr. Chairman, while I am sure that these bizarre cases are aberrations, we are, nonetheless, troubled by these reports of excessive zeal on the part of certain law enforcement officials. Some innocent citizens now face thousands of dollars of damage to their property. Others, who live on their boats, no longer feel safe from the government in their own homes.

As I am sure you will agree, the extraordinary police authority that has been given to the Coast Guard and the Customs Service carries with it a certain responsibility to be mindful of the rights we enjoy as American citizens.

As with the Coast Guard's "defect" program, we believe it is time for the Congress to review the way that our federal agencies are carrying out the laws of this country. It is time to provide them with some much-needed direction, which they appear to have lost.

On behalf of our Association members, I would like to thank you for this opportunity to express our concerns. I will be happy to reply to any questions you may have.

NATIONAL BOATING FEDERATION

1000 Thomas Jefferson Street, Washington, D. C. 20007
Telephone: 202-338-5718

COAST GUARD AUTHORIZATION BILL TESTIMONY
PRESENTED BY BARRY R. LABOW, PAST PRESIDENT
NATIONAL BOATING FEDERATION
BEFORE THE
HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE
COAST GUARD AND NAVIGATION SUBCOMMITTEE
May 19, 1989

1. Congress amended existing law regarding vessels carrying passengers for hire. The portion of the law amended is commonly referred to as the "six pack" law. The effect of the amendment is that the Coast Guard seems to think that the scope of their power and authority was substantially broadened. Subsequent to the change, the Coast Guard has zealously pursued the law, specifically with regard to pleasure craft. At this point in time, the Coast Guard has advised the recreational boating public that they (the Coast Guard) need to rigidly enforce the law in order to eliminate the serious offenders. In the process, innocent pleasure boaters who do not feel they have violated any law because they have not accepted any financial consideration, now find the Coast Guard attempting to cite them for a violation. Examples of what the Coast Guard cites as a violation are:

    1. Guests aboard a vessel who may be family, friends, employees or business associates who share in any costs such as fuel, refreshments or moorage, is deemed to be "valid consideration" and the owner is cited as a violator.

    2. A guest who arrives aboard with an unsolicited six pack of beer

is considered to have given "valid consideration" and the owner is a violator.

3. A boat owner who brings aboard his vessel any employee or member of an employee's family is deemed to be in violation for providing nonmonetary benefit to said person(s).

4. A boat owner who uses his boat as a race committee boat in the conduct of his club's regatta also has been termed to be in violation of the law. In all fairness to the Coast Guard, they have unofficially agreed not to consider this particular point a violation.

5. A boat owner and a fellow boater jointly entered the boat in the local Christmas parade. The boat owner provided the boat and the fuel. His fellow boater provided a generator and the decorative lighting to decorate the boat for the parade. The boat owner was termed to be in violation.

The National Boating Federation, on behalf of its over two million boat owning families, urges Congress to correct this excess of authority and to stop the Coast Guard from further misapplication of the law. We suggest that a workable solution would be to simply insert the words "primarily for pleasure" in 46 USC 2101 (21) (B).

II. The Transportation Department budget proposal for Coast Guard Operating Expense Fund Expenses for Fiscal 1990 offends the National Boating Federation's sense of equity. Barely six months after Congress raised the ceiling on the Wallop-Breaux Fund's Boating Safety Account to authorize

twice as much Federal Fuel Tax paid by the boaters for the Coast Guard, $15 million to $30 million, we find it proposed to withhold half of the funds authorized for state boating safety assistance, also originating in the boater's Federal Motor Boat Fuel Tax, possibly as a ploy to gain still more revenue for the Coast Guard. The budget proposal indicates no sensitivity for the fact that even the Coast Guard acknowledges the states are doing the lion's share of recreational boating safety law enforcement and education. It overlooks the fact that monies authorized but not appropriated from the Boat Safety Account automatically roll over to the Sport Fish Restoration Account. We fear that this cut in state funding, if allowed to go through, would seriously undermine existing, effective state boating safety programs and would place the nation's boaters in a position of jeopardy. It is unconscionable to us that the Department is, at the same time, proposing a $25 tax in the guise of user's fees on all recreational boats used on navigable waters of the United States. We feel we are justified in questioning the validity and fairness of the imposition of user's fees when few services in some cases and no services in many cases are provided by the Coast Guard. The nation's boaters have contributed more than $100 million of the marine fuel tax deposited to the Wallop-Breaux Fund which has been specifically authorized and appropriated to the Coast Guard. In reauthorizing the Boat Safety Account of the Fund this past year, Congress doubled the Coast Guard's share to $30 million per year.

No matter how you put it, this is a user's fee that more than offsets any Coast Guard expenses to service recreational boating.

It is a fact the Coast Guard withdrew its Boating Safety Detachments (BOSDETS) several years ago. It is also a fact that the states in many

instances have assumed responsibility for permitting and patrolling races and regattas on waters of concurrent jurisdiction. Further, on many navigable waters, aids to navigation are not for the benefit of shallow-draft recreational vessels. They are for deep-draft commercial vessels. The Coast Guard term is that these aids are for commerce and navigation.

We know it is Coast Guard policy, in non-emergency search and rescue missions, to divert to commercial towing companies. All things considered, why should it be proposed that boaters pay a user's fee when the Coast Guard provides little in the way of services and they already are receiving a user's fee in the form of Wallop-Breaux Boat Safety Account Funding.

The National Boating Federation urges the subcommittee to reject both the user fee proposal and the Administration's proposal to frustrate the distribution of the Wallop-Breaux Boat Safety Account for boating safety purposes.

The National Boating Federation supports the position of the States Organization for Boating Access that 10% of the Boat Safety Account should be authorized for the acquisition, construction or repair of public access. Although Congress has affirmed that public access is an integral part of the Boat Safety Account, experience indicates only a small minority of the states use any part of their allocation for public access. We suspect that this may be due to the fact the states do not understand the eligibility for public access. It would help to have one or more facilities oriented person(s) appointed to the state government sector of the National Safe Boating Advisory Council.

Testimony of

The American Waterways Operators

before the

House Subcommittee on Coast Guard and Navigation

of the

Committee on Merchant Marine and Fisheries

Hearing on Recreational Boating Safety

May 19, 1989

Nashville, Tennessee

presented by

Jeffrey A. Smith

Vice President - Public Affairs

American Waterways Operators

My name is Jeffrey Smith, and I am Vice President - Public Affairs of the American Waterways Operators. I am here today on behalf of the 300 plus member companies AWO represents who are involved in the domestic inland and oceangoing tug and barge industry. AWO sincerely appreciates the opportunity to appear at this hearing this morning, since the subject of recreational boating safety--and of all watercraft safety for that matter--is a subject of the deepest concern to us, and is a matter which deserves the focused attention of both the boating public and the public at large. AWO would like to express its sincere appreciation to this Subcommittee for all its important efforts to promote safety on the nation's great waterways system.

As this Subcommittee well knows, the nation's tug and barge industry plays a vital role in the American economy--moving a full 15 percent of the nation's freight for just 2 percent of the nation's total transportation cost. Our vessels carry almost 60 percent of all U.S. grain bound for export, 40 percent of the nation's total petroleum and petroleum products, and one in every five tons of U.S. coal. Our industry plays a critical role in transporting to market the fuel that powers the nation's automobiles, the coal that lights our electric generating plants, the building materials from which our homes are made, right down to the feed grains America exports every day. And our industry plays a little-known but vital role in national defense as well, providing the capacity to furnish a huge cadre of trained seamen to the U.S. Merchant Marine in case of a national emergency, and providing the actual movement of arms and materiel both in times of peace and in the event of mobilization.

But we are here today to discuss not so much an economic issue, but a human issue. Here in the Nashville area, and on the 26,000 miles of navigable inland and coastal waterways of the nation, the coexistence of recreational boaters, water skiers, jet

skiers, and others who use the water for pleasure, along with the working tugboats, towboats, and barges of our industry, is a fact of life. However, this togetherness on the nation's waterways can also be an environment in which serious accidents and death may occur. The growth of the recreational boating industry from 6 million recreational boaters in 1961 to nearly 15 million today is both a good sign of the nation enjoying itself, and a sign of potential and growing danger. Consider that along with all those pleasure boats cruise 7500 towboats and tugboats as well as 32,000 barges of all types. It's getting crowded out there.

AWO wants to emphasize that the waterways do not belong to any single type of vessel--recreational or commercial. The sail boater, power boater, fisherman, or water skier has just as much right to be on the water as the tugboat, towboat or commercial fishing boat. However, we all need to be more aware of each other and to understand the constraints, needs, restrictions, abilities and just plain facts of each others' existence on the waterways.

By anyone's standards, there are too many accidents involving recreational and commercial vessels. The annual rate of reported accidents for this type of incident has almost doubled in the last seven years. According to the U.S. Coast Guard Marine Safety Evaluation Branch, there have been over 70 deaths and over 40 serious injuries--not to mention damage to pleasure vessels alone in excess of 8 million dollars--directly attributable to accidents between commercial and recreational vessels since 1981 (CASMAIN Report 3/8/89). Most tellingly perhaps, many of these accidents would seem to be preventable through more widespread boater education that encourages an understanding that operating a recreational boat on America's

crowded inland and coastal waterways may take some special knowledge, particularly around commercial vessels. The statistics themselves make this case; according to the Coast Guard, 59 percent of the total accidents between recreational and commercial vessels since 1981 have been the result of failure to comply with the rules of the road, or errors in judgement, or just plain carelessness. Similarly, 69 percent of the deaths that resulted from a commercial vessel and a recreational vessel collision or other accident were a result of failure to comply with the rules of the road, or errors in judgement, inexperience or inattentiveness (CASMAIN). Add this to the fact that only about ten percent of recreational boaters have had any formal boating safety training, and one can easily deduce that there is a vast educational void that needs to be filled (BOAT/U.S.).

The tug and barge industry sees a clear need for an initiative to develop an awareness in recreational boaters of the constraints under which commercial vessels operate, and thus provide as many recreational boaters as possible with the best protection against danger. This spring, AWO will mount a major and unprecedented safety program--we call it **Lifelines**--that is designed specifically for this purpose. Through publication of over a quarter million carefully developed **Lifelines** brochures, and through aggressive efforts to stimulate media attention throughout the country, the barge and towing industry aims to develop a more clear awareness that on many inland and coastal waterways where millions of power boats, sail boats, water skiers, and jet skiers are recreating, that thousands of tugboats, towboats and barges carrying millions of tons of cargo also pass.

Through the **Lifelines** program, we will attempt to demonstrate in clear, easy-to-understand terms some of the operational restrictions and requirements of commercial

vessels that recreational boaters should know. These operating restrictions are not always apparent. For example, few realize that a towboat and barges approaching a bridge or lock needs to be lined up and committed to its approach--like an airliner coming in for a landing--well ahead, and it is difficult and dangerous for them to change course. In the same way that a light plane wouldn't sit on a commercial runway until the last minute with a jumbo jet approaching, it is best for recreational boats and others to stay out of the path.

In **Lifelines**, we've also suggested some basic precautions recreational boaters should take regarding commercial vessels in order to avoid danger. Although Shakespeare may have said that "The best safety lies in fear," we do not necessarily want to encourage that emotion. Instead, we include precautions based on understanding rather than fear--such as avoiding cargo loading docks and fleeting areas, understanding at least one very important whistle signal--the danger signal--which is five or more short blasts, and means stay clear. We also suggest that safe anchorages be used, that water skiers avoid jumping wakes or riding close alongside a commercial vessel, and that lifejackets be worn at all times. Most of all--and this does not apply alone to our corner of the safe boating issue--we strongly urge all boaters to avoid drugs and alcohol. On commercial barge and towing industry vessels, all illicit drugs and alcoholic beverages are strictly prohibited.

However, this is not a one-way street. Coincident with AWO member companies attempting to educate recreational boaters, our companies are distributing the **Lifelines** educational materials both within their companies and aboard their vessels. Commercial vessel pilots undergo intensive professional training and practice in everything from navigation to fire-fighting through in-house training and through a

rigorous licensing program administered by the Coast Guard. The mariners who command towing industry vessels have many years of experience before they take the controls. Nevertheless, our industry believes firmly that there is always something new to learn, or seasoned skills to be fine-tuned, and the **Lifelines** program will work to encourage a greater awareness of the recreational boating environment among our captains and their crews.

The Lifelines brochures are attached as an appendix to this testimony. They outline in more comprehensive terms than I have time for this morning these suggested actions and points of specific knowledge.

The Lifelines recreational boating safety program has been enthusiastically received by the United States Coast Guard Auxiliary, the U.S. Power Squadrons and BOAT/U.S., all of whom have agreed to actively distribute the **Lifelines** brochures nationwide. The U.S. Coast Guard has offered to distribute them through their Auxiliary National Supply Center. The U.S. Power Squadrons has assured us that they will put one of these brochures into the hands of every person who takes a Power Squadron boating class this summer--that's 50,000 boaters. BOAT/U.S. will distribute them through their excellent newsletter. The tug and barge industry is deeply appreciative of this high level of cooperation and enthusiasm.

AWO is one hundred percent behind the overall effort to enhance recreational boating safety. Our members have joined together to underwrite the cost of the **Lifelines** program and will be enthusiastically promoting it in their local areas through the media and at other appropriate outlets. Mr. Les Sutton, President of Ingram Barge Company who is with me here this morning, is spearheading the

Lifelines boating safety effort in the Nashville area. His company alone is distributing thousands of **Lifelines** brochures at key points such as marinas, sportsmen's clubs, marine suppliers, boat yards, fishing tackle stores, convenience stores near marinas, and so on. This effort is ongoing in many major areas around the country where the tug and barge industry has a presence.

Again, we commend this Subcommittee for holding these hearings, and hope that through the **Lifelines** program we will contribute to the worthy objective of safer waterways for all Americans. I will attempt to answer any questions you might have. Thank you.

# # #

A Checklist For Life

- ☐ Drinking and boating are a deadly mix.
- ☐ Designate a lookout particularly for commercial traffic, both day and night.
- ☐ Know the rules for visibility, and abide by them, especially at night.
- ☐ Avoid ship channels. Cross them quickly.
- ☐ At least five or more short whistle blasts mean danger.
- ☐ If you have the equipment, listen to VHF radio channels 16 and 13.
- ☐ Wear a life jacket, properly fitted and fastened.
- ☐ Learn all the navigation rules, and live by them.

Presented as a public service by
The American Waterways Operators
The Inland & Coastal
Tug and Barge Industry Association
in cooperation with
National Waterways Foundation

Lifelines

**A Few Pointers
On Safety
From
America's Coastal
Tug & Barge Operators**

On many coastal waterways where recreational boats operate, big ships, barges and tugboats carrying tons of cargo also pass. The waterways do not "belong" to any single type of vessel--recreational or commercial. An awareness of the constraints under which these commercial vessels operate provides recreational boaters with the best protection against danger.

This brochure is intended only as a supplement to other sources of information on seamanship and rules of the road. It assumes that you, the boat owner, know the rules and appropriate signals. If you don't, it might be in your best interest to contact the United States Coast Guard concerning boating safety training.

What Recreational Boaters Should Know

Commercial vessels, including towboats and tugboats operate 365 days a year, 24 hours a day.

The speed of a ship, towboat or tugboat can be deceptive. A tow can travel one mile in seven minutes, - a ship even faster- and it generally takes $\frac{3}{4}$ to $1\frac{1}{2}$ miles to stop. For example, if a water skier falls a thousand feet in front of a moving tug or tow, the skier has less than one minute to get out of the way.

Large vessels must maintain speed to steer, and they must stay in the channel--it's the only place deep enough for them to operate. Many channels are unmarked. On some waterways, the channel extends bank to bank, so expect vessel traffic in any portion of the waterway.

A Pilot's Blind Spot can extend for hundreds of feet in front of deep-draft ships, tugs and tows pushing barges.

When operating in narrow canals, be aware that a tug or tow's powerful engines can cause a smaller vessel to be pulled toward the tow, when passing alongside.

A tug without barges could be towing a log raft, barge, or other objects on a long submerged line behind it, which lie low in the water and are difficult to see. Never pass closely behind a tugboat.

Sailboaters and wind surfers should know that a tow or tug can "steal your wind"--so you won't have the same wind you started with when executing a sailing maneuver near a commercial vessel.

Commercial vessels operate in all weather conditions, including low visibility, making extensive use of radar. Be sure to have a radar reflector mounted high on your vessel.

Ships, towboats, and tugboats use VHF Radio Channels 16 and 13. If you are unsure of your situation, or their intentions, feel free to contact them.

What Recreational Boaters Can Do

Don't operate a boat while drinking alcohol or using drugs. Over half of all recreational boating deaths are due to alcohol impairment. It's proven that motion, vibration and engine noise, combined with the sun, wind and glare of the marine environment compound the effects of alcohol.

Designate a Lookout! Assign one person in a recreational boat to look out particularly for commercial traffic.

Watch for ship, tug or towboat lighting at night--don't rely on trying to hear one approaching. Pay attention to the sidelights of tugs and tows, rather than the masthead lights. If you see both sidelights, you're dead ahead, and in the path of danger.

Avoid cargo loading docks and "parked" or moored vessels in fleeting areas. There are many loading areas, or "terminals," along the nation's coastal waterways. Stay Clear!

Understand whistle signals. At least five or more short blasts on the whistle is the "danger" signal. Stay clear of vessels sounding the "danger" signal.

Use safe anchorages. Coast Guard navigation aids like buoys mark channels for shipping and it is illegal and dangerous to tie up to them. Each year commercial vessels ram and sink boats anchored in navigation channels or tied to buoys.

Don't water ski or jet ski in and around tows. That's a risk not worth taking. Jumping wakes, riding close alongside, or cutting under the bow or stern of a tug or tow could cause a boat or skier to be sucked through a towboat's large propellers.

Wear a life jacket at all times. Over 82 percent of those killed in boating accidents in 1986 were not wearing life jackets.

NATIONAL MARINE MANUFACTURERS ASSOCIATION

TESTIMONY OF NANCY LINDEN FOR THE
NATIONAL MARINE MANUFACTURERS ASSOCIATION
BEFORE THE COAST GUARD & NAVIGATION SUBCOMMITTEE OF THE
HOUSE MERCHANT MARINE & FISHERIES COMMITTEE

May 19, 1989

We are greatly disappointed in the recommendation in the Coast Guard's FY 1990 budget to appropriate only half of the $30 million in authorized funds in the Wallop-Breaux Fund's Boat Safety Account for federal aid for state boating safety programs.

To what end? The money does not stay in the Account accruing interest for future distribution to the states. It does not go to the Coast Guard for recreational boating safety service, though we note with some irony that the Transportation Department independently is advocating charging recreational boaters $150 million in Coast Guard user fees. The money does not help with federal budget deficit reduction. It will be spent regardless. That is because the Wallop-Breaux Act provides that any revenue authorized but not appropriated in any fiscal year automatically rolls over to the Sport Fish Restoration Account which has the benefit of a continuing permanent appropriation. As a consequence, the money is irretrievably lost for boating safety.

When Congress reauthorized the Boat Safety Account last year provision was made that the Coast Guard shall receive no more than that which is appropriated to the States in any given fiscal year. This was inserted as a triggering mechanism to ensure full funding for state boating safety assistance. In

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Washington, DC 20007 · 202/338-6662

effect, the Transportation Department may not recommend appropriating only half the authorized level of funding for the states without penalizing the Coast Guard.

We perceive a flaw in the Boat Safety Account which works against full funding in any case.

Even though the money in this dedicated trust fund is derived wholly from boating sources in the form of federally collected tax on fuel used in boats, and the fund is in no way dependent on general revenues, we find that there is a chronic difficulty in gaining appropriations to the full level of authorized funding because spending from the fund is factored into the Transportation Department's overall budget ceiling. Consequently, if the Transportation Department has a higher commitment to other transportation programs unrelated to recreational boating safety, there always will be a budget squeeze and boating safety programs will lose out even though the money for such programs is there in the form of marine fuel tax. Thus, it is not a question of lack of funds for boating programs but competition under the Transportation Department's budget ceiling for appropriations for various transportation programs.

Clearly, something more needs to be done in authorizing language to resolve this dilemma. The present triggering mechanisms for full funding of boating safety programs, both the automatic roll-over of monies authorized but not appropriated to the Sport Fish Restoration Account and the stipulation that the Coast Guard shall receive no more in any given fiscal year from the Boat Safety Account than that which is appropriated for state boating safety assistance, do not solve the problem with the Transportation Department's budget ceiling.

20-658 0 - 89 - 6

The underlying question is, can anything be done to get the Boat Safety Account of the Wallop-Breaux Fund off budget with the Transportation Department.

Certainly, it is not our wish to provoke a jurisdictional tug of war over this issue between the various authorization and appropriation committees of Congress who are involved, but we trust this Subcommittee will understand and empathize with the fact that the state boating safety assistance program cannot move forward with the vigor that recreational boaters have a right to expect as long as funding remains hostage to the budget process. It is our concern that the states may be reluctant to commit to a partnership with the federal government in financing comprehensive programs because of the chronic uncertainty about the budget and appropriations.

PRINCIPAL PLACE OF USE

We are witnessing a breakdown in reciprocity of state boat numbering laws as we understand reciprocity under the Federal Boat Safety Act of 1971.

Existing law provides that when a vessel is actually numbered in the state of principal use, it shall be considered as in compliance with the numbering requirements of any state in which it is temporarily used. When a vessel is removed to a new state of principal use, the issuing authority of that state shall recognize the validity of a number issued by any other issuing authority for a period of at least sixty days before requiring numbering in the new state.

The statute defines "use" as to navigate, operate or employ; however, it fails to define principal place of use and law enforcement officers have a chronic problem of determining how long a boat has been in their jurisdiction. Consequently, there is no uniformity between state laws on reciprocity for boat numbering. Roughly half the states provide for 90-day reciprocity, which was the original federal standard in the Federal Boating Act of 1958; 19 states and the District of Columbia provide for 60-day reciprocity according to the 1971 statute; one state says 180 days; and another state does not specify at all.

The Coast Guard has rendered a legal opinion that principal place of use pertains only to boat numbering, and does not bar the states from registering out-of-state boats, even though they are currently registered and numbered in their state of principal use, and charging them a registration fee for the privilege of using their waters, no matter what length of time they have been in the state. In 1983, the Coast Guard upheld an Idaho statute requiring all vessels operated on waters of the state to obtain annual or daily use permits to help raise money for waterways maintenance and improvement and boating law enforcement. Because there is nothing in the Idaho law requiring out-of-state vessels with valid numbers to obtain new numbers for use on Idaho waters, the Coast Guard found no violation of numbering reciprocity. Since that time the State of Montana has retaliated against Idaho by legislating that states which charge Montana numbered vessels a temporary use fee for the privilege of using their water will get the same treatment of its boaters visiting Montana waters. A
Utah law provides that the State will honor out-of-state numbers for 60 days but after only 14 consecutive days of use on Utah waters an out-of- state

numbered boat must be registered with and pay Utah a registration fee. Arizona is charging out-of-staters more to register than it does its own citizens even though they receive no extra service.

Licensed automobiles are not charged extra for interstate use of highways unless they access tollroads. We do not see why a recreational watercraft legitimately numbered and registered in one state must pay each and every other state it visits a fee for the privilege of using the waterways. We believe the purpose of reciprocity in boat numbering is to spare boaters from paying multiple fees.

The trouble is, there is no consensus on definition of principal place of use for boat numbering reciprocity purposes. In fact, some state marine law enforcement officers want to change the basic definition of use in the federal law to include a boat's mere physical presence in the state. They contend that if a boat is kept in the state in a position for ready use on the water, even though it is seldom if ever used in or on the water, that should count toward principal place of use. NMMA resists that because if there is no in or on the water use, the state is not actually providing service to justify charging the boat owner a numbering fee. Some states stand to lose a great deal of revenues. A redefinition of use could cost millions of dollars where numbering is linked to collection of personal property tax or sales tax on boats.

Some states are in favor of shortening the standard reciprocity period from 60 days to 30 days, because of the brevity of their boating season and because it is virtually impossible for law enforcement officers to determine how long a boat has been around except by regular physical checks.

In 1986, the Uniform Boat Laws Committee of NASBLA polled the state members, and by a majority vote decided that principal place of use means 60 days out of the calendar year, cumulative but not necessarily consecutive. It was also decided that principal place of use relates to in or on the water use. Mere physical presence of a boat in the state, e.g., dryland storage, incident to in or on the water use may be used to determine principal use. Finally, principal place of use relates only to the bow number; it does not bar the states from charging for registration or water use permits. Again, to our mind this threatens a breakdown in reciprocity and should be resisted.

IN FAVOR OF NUMBERING ALL VESSELS

NMMA supports a provision in recently introduced HR-1343 by Rep. Bob Davis to require sailing vessels to be numbered under Chapter 123 of Title 46, U.S. Code.

Candidly, if it were up to us, all vessels, regardless of method of propulsion, would have to be registered and numbered. We do not think it is fair that the costs of administering and enforcing recretional boating safety laws should be borne entirely by motorboats via registration fees and motorboat fuel tax. Nonmotorized vessels share in the benefits of recreational boting safety and facilities programs. They should bear part of the cost. However, it is difficult to bring this about in state legislation as long as the basic federal standard is for numbering motor powered vessels only. It is significant to note that the National Association of State Boating Law Administrators passed a resolution in 1987, urging Congress to amend the Federal Boat Safety Act of 1971 to require the registration and numbering of all vessels.

Statement of Phil Keeter
Executive Director of the
Marine Retailers Association of America
Accompanied by John Paggett
Owner/Operator of Modern Marine Corporation
before the
Subcommittee on Coast Guard and Navigation
on the
Issues of Recreational Boating Safety and Wallop-Breaux

My name is Phil Keeter. I am the Executive Director of the Marine Retailers Association of America. With me this morning is John Paggett, the Owner/Operator of Modern Marine here in Nashville. I intend to focus my testimony on a few national issues that are important to us and John will concentrate on local issues of concern.

The Marine Retailers Association is the national organization representing small businessmen who sell boats and boat equipment and operate marinas. MRAA has just under 3,000 members who do about $6 billion in annual retail sales.

Boating is a very popular form of recreation in Tennessee. As of last year, there were about 80 marinas and 320 boat dealers. In fact, boating is growing in Tennessee. In one year from 1986 to 1987 Tennessee rose from 19th to 16th position in the ranking of the number of recreational boats in the states with 225,000 boats.

All industry projections indicate that boating will remain a preferred form of recreation in our country, An estimated 70 million Americans enjoyed water-related activities last year, and here in Tennessee nearly 1.1 million residents particapated in some form of boating, that's 22 per cent of the state's population.

And, these are not fat cat owners of glamor yachts. The people who enjoy boating are typically married family householders with a small trailerable boat and motor averaging about 16 feet in length.

This is a very large constituency that looks to the Coast Guard to provide certain reasonable assurances that marine products, equipment, and boats meet minimum safety and reliance criteria. They look to the Coast Guard for boating safety regulations, education, and direction. And, they look to the Coast Guard as the focal point to keep boating educators current, to foster a greater awareness of boating safety issues

and to train law enforcement personnel.

These programs have been paid for, in part through an excise tax boaters pay on purchases of gasoline used for water activities. The American boating public has contributed more than $105 million a year in the recent past to the Boat Safety Account of a fund commonly referred to as Wallop-Breaux. Disbursements from this excise tax go directly into programs that directly benefit the people who are being taxed. What better user fee?

However, the past success of these programs may again be in jeopardy! We understand the Administration is supporting a 50 per cent reduction in the disbursements from Wallop-Breaux which are used to assist state governments in funding boat safety programs and constructing boat access ramps from $30 million to $15 million.

We strongly support full funding of the Boat Safety Account and oppose any proposal to reduce either the Coast Guard or state boating safety programs.

We are also deeply appreciative of the work you, Mr. Chairman, and other members of the Coast Guard Subcommittee, especially Mr. Clement, have done to assure the Boat Safety Account programs are fully funded and we ask for your continued support.

Another issue of deep concern to us is a bill, H.R. 2118, recently introduced by Congressman Silvio Conte of Massachusets, which proposes to charge a $25 indirect user fee to the owners of recreational boats. This just does not make sense! If you consider the Administration's proposal to reduce appropriations from the Boat Safet Account and the user fee bill together, these two legislative propoals would serve to increase taxes to American boat owners and, at the same time, would deny them the full benefits of existing, highly successful, and directed user fees.

MRAA also strongly opposes the enactment of H.R. 2118. In April. 1987 the General Accounting Office noted that the Department of Transportation had submitted inadequately formulated proposals and that recreational boaters already were paying fees that are similar to the user fee charges that were being proposed at that time. In addition, GAO stated the user fee charges were not related to direct and quantifiable benefits to the people paying the fee.

The indirect user fee provisions of the Conte Bill also appear to be set arbitrarily and are not a fee for a particular service assessed at the cost to the government. Many boat owners who would assessed the Conte user fee do not use Coast Guard facilities or services and, in fact, the Coast Guard actually would never see any of the additional revenuses.

They would all be directed to the general revenue fund.

In 1987, a bill very similar to H.R. 2118 was defeated on the House floor because of the leadership of this Sub-committee. We want to thank you for your support and look forward to working with you on this bill.

There is one more national issue I would like to present. Recently, the Coast Guard has taken a literal interpretation of U.S. Code in a few instances regarding the need for a Captain's license by recreational boaters. For many years, boat owners have taken friends out fishing on their boats. I have done this. These guests often help to pay for the fuel costs or bring on board food and beverages. It is not being done to pay the owner for a fishing trip but more as a common curtesy. We understand that in a few instances the Coast Guard is saying that this is renumeration and are requiring that the owners of recreational boats have a Captain's license.

We believe this is wrong and ask that you look into this matter. We would be happy to work with you on this.

The marine dealers and Marina operators in Tennessee are concerned, as always, with water safety, but may be even more so today. The U.S. Power Squadrons, the Coast Guard Auxiliary, state organizations, and boating clubs have provided excellent safety courses for the boating public. We encourage our customers to take one of these courses. We also provide an in-house boating course on a video tape that was prepared by MRAA.

Education is a key ingredient in the prevention of accidents. We only have to look at the decling death rate to see the success of the many boating safety programs. The actual number of deaths has also been declining for the past 20 years which is unbelievable when you cosider the number of boats is increasing and many of our lakes and waterways are becoming congested on weekends.

We strongly endorse the voluntary boating education programs now being provided, and encourage the usage of funds from the Boat Safety Fund be used to better communicate the availability of these courses. The National Boating Safety Advisory Council is currently studying the issue of boater education and more specifically the recently passed legislation in Maryland which makes it mandatory for youths to take a boat safety course. This study should be completed in about 2 or 3 years. We believe any legislation requiring mandatory education for boaters should be postponed until the results of this study become avaiable.

Another major problem on the water in Tennessee is the same problem we have on our highways, alcohol abuse. When combined with the envirinmental effects of sun and wind and with

fatigue, alcohol can have a devasting effect on judgment. We support legislation that will place a similar blood alcohol content level on operators of recreational boats as what is on the drivers of a car. We also ask that boat safety courses continue to emphasis alcohol restraint and teach the potential effects of the combined factors of the environment and alcohol on judgment.

Thank you Mr. Chairman. That concludes our testimony and we are now open for your questions.

Written Testimony

Submitted to

House Subcommittee on Coast Guard and Navigation

of the

Committee on Merchant Marine and Fisheries

Hearing on Recreational Boating Safety

May 19, 1989

Nashville, Tennessee

Submitted by

Lester E. Sutton

President

Ingram Barge Company

My name is Lester E. Sutton. I am President of Ingram Barge Company ("Ingram"), One Belle Meade Place, Nashville, Tennessee. Ingram has been in operation on the United States inland waterways since 1946. Today it is one of the largest carriers in the United States inland marine industry, operating a fleet of 50 towboats and 1,500 barges. Ingram operates throughout the Inland Waterway System.

I have been associated with Ingram since February 1988. Prior to that time, I was President of Dravo Mechling Corporation which, like Ingram, is a full service barge line operating over an extensive portion of the inland waterways. I have been in this business for almost 20 years. Much of my experience involves towboat operations. I understand fully the interface between recreational craft and towboats and barges. I am also aware that in most cases recreational and commercial craft coexist very well together.

It is those exceptions, when they do not, that I wish to address in this statement. My personal observations over the years and those of Ingram's towboat Captains indicate that the causes of almost all problems involving recreational and commercial craft can be found in three major categories.

1. Alcohol abuse
2. Inattention
3. Lack of understanding

While I do not content that the towboat pilot is never at fault, my experience tells me that in well over 90% of the time the recreational boater took some action, or failed to take an action, which resulted in the accident.

Towboat pilots are extremely aware of the dangers to recreational boaters operating in close proximity to their tows. Ingram posts lookouts on its tows in areas of heavy recreational traffic. However, the primary factor that keeps towboat pilots alert around recreational boaters is the fact that there is almost no anxiety greater than that experienced from the time a recreational craft disappears from the pilots view in front of his tow until it reappears on the other side.

I would also observe that accidents involving recreational craft can be categorized in the same three areas--alcohol abuse, inattention, and lack of understanding in areas where they do not interface with commercial traffic.

Let me give you three stories, all from the last July 4 holiday period, that will help you understand why Ingram is a willing participant in the program to educate recreational boats.

Last June 30, well after dark, an unlighted fishing boat with three passengers was struck by another towboat with tow. The fishing boat was apparently in the commercial channel with the men fishing. One of the men drowned. The towboat never saw them. Ingram's crew helped search for the missing body.

On July 3, in broad daylight and with good weather and visibility, an Ingram tow was upbound through the Highway 79 Bridge at Paris Landing State Park on the Tennessee River. This is already a restricted channel area and on this day there were dozens of fishing and recreational boaters about. After repeated signals and efforts by the pilot for fishermen to move out of the

channel, he was forced to take evasive action and go out of the channel and ground his tow to avoid the boats. Only minor damage was sustained to one of the barges, but the toll could have been higher. Had the tow struck rocks or one of the liquid chemical barges been damaged, the entire recreational area could have been affected for weeks. More importantly, these boaters were lucky the pilot could take evasive action, under other circumstances, he might not have been able to avoid them.

Also on July 3, an Ingram towboat was not able to stop in time but fast action on the part of other boaters saved a young girl's life. The Steel Express was northbound with a tow of 15 barges near Cincinnati on the Ohio River. A young teenager riding a "jetski" made a pass up and down the side of our tow. Suddenly she veered in front of the tow, lost her balance and fell off only a hundred yards or so in front of the tow. The Captain saw it happen and immediately blew the danger signal and started backing full astern. He knew he would not be able to stop in time and only hoped he was buying time for her to get out of the path of the tow. Nearby boaters, seeing what had happened, raced to her aid and were able to throw her a line and pull her to safety. These and other incidents make us very aware that <u>all</u> accidents involving commercial and recreational craft are preventable.

My third cause "Lack of understanding" almost encompasses the other two. For example, a person who knowingly abuses alcohol while operating a high powered motorboat, for which he has had far less training than for driving an automobile, obviously does not understand the risks he is taking.

Ingram is happy to participate in AWO's lifelines program but also recognizes that a massive effort will be required to stop the senseless suffering and losses caused by the lack of knowledge or appreciation of the hazards of recreational boating, both in areas where they interface with commercial traffic and where they do not.

3101 Country Lawn Drive
Antioch, TN. 37013
May 17, 1989

Bob Clement
Member of Congress
5th District, Tennessee
2701 Jefferson Street Suite 103
Nashville, TN. 37208

Dear Mr. Clement,

I am sorry that I will not be able to attend your upcoming meeting on water safety this Friday. As an avid boater, I am concerned about the safety of my family and fellow boaters as we enjoy Tennessee's lakes.

Having spent several years boating on Percy Priest lake in Nashville, "I have seen just about everything" concerning the use and misuse of this lake by boaters and non-boaters. I have towed several boats off of rocks, yelled at two different swimmers in the middle of the channel at dusk, and seen various displays of stupidity by people who really didn't belong on the water. I'm sure I have committed errors in the past as well.

My recommendations for increasing water safety are as follows;

1) institute a mandatory Coast Guard type boating course as a pre-requisite for a boat license.

2) institute stringent water use regulations around swimming and launching areas.

3) increase patrols of our waterways and public use areas.

Serious boaters will gladly study and pass necessary testing to enjoy their sport. Serious boaters will gladly pay higher licensing fees to enjoy safe boating. Make the "price of admission" high enough and many of the troublemakers will go away.

Sincerely yours,

Timothy R. Powers

May 2, 1989

Honorable Bob Clement, Congressman
552 U.S. Courthouse
Nashville, Tennessee 37203

MAY 12

Dear Congressman Clement:

This is in reference to your upcoming Water Safety Public Hearing to be held at the J. Percy Priest Lake Resource Manager's Office on 19 May.

As park rangers for the Corps of Engineers we have found that most accidents occurring around water are alcohol-related. Known for its progressive water safety programs, the Corps of Engineers Pittsburg District has taken a pioneering step by banning alcohol from all District lakes. When alcohol prohibition was suggested for Percy Priest Lake, though, one reason for denial was that it was not in the public's interest. Although the Corps does not allow alcohol in selected recreation areas, it is legal to have it in a boat and the public can buy beer at any commercial boat dock on Percy Priest Lake.

Please take a moment to review the enclosed. This outlines the problem of alcohol on recreational lakes and where local Corps of Engineer officials stand on the issue. Thank you for your time.

Sincerely,

Richard D. Graham, Park Ranger

Wayne S. Easterling, Park Ranger

Encl:
as stated

J. Percy Priest Lake
3737 Bell Road
Nashville, Tennessee 37214-2660

Telephone 889-1975

Congressman Bob Clement

MAY 03 1989

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Engineer Update

Vol. 12 No. 11 November 1988

Commentary

Alcohol, water form dangerous mixture

BY HELEN GARAMONE
HQUSACE

A dramatic television public service announcement shows a young man wearing a blindfold plunging into the water with his hands tied behind his back. The message of the 30-second film is that the combination of drinking and swimming is just as dangerous. Called "Down and Out," the spot was one of three Corps public service announcements recently nominated for an Emmy. Last month Maj. Gen. George Robertson, the Corps' designated agency safety and health official, accepted a Distinguished Service to Safety Award from the National Safety Council.

The two honors recognize a public awareness campaign that began back in 1971. That year the Corps of Engineers decided to make a concerted effort to reduce water recreation fatalities at Corps projects.

Since that time there has been a 50 percent decrease in deaths despite a 30 percent increase in visitation.

The Corps has used banners at project entry points, posters and signs near swimming and boating areas, traveling exhibits, and radio and television public service announcements as well as direct contact with the public to spread the message of water safety.

The Corps could rest on its laurels and accept the well-deserved praise. But saving lives is like accumulating money. The more you save, the more you want to save. And last year 202 people lost their lives.

According to a Corps study of 165 military and 873 civilian drownings over a three-year period, the typical fatality involves a male between 18 and 25. In 29 percent of the drownings, alcohol was found to be a contributing factor. In another 41 percent, it was suspected of being a factor.

The Corps approach has generally been to discourage drinking by pointing out the dangers of intoxication. Only Pittsburgh District has outright banned the use of alcoholic beverages at all its projects.

Studies have shown that the warmth of the sun has an affect on the human system that is similar to intoxication. That is, reflex actions are slowed markedly and vision is impaired by the sun's sedating effect.

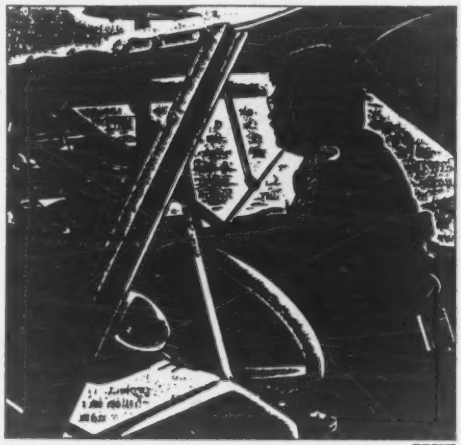
Add that to the effects of intoxication itself and the combination can be deadly.

Last year the Coast Guard took decisive action against drinking and boating. The Secretary of Transportation set a blood alcohol content standard for intoxication. If a driver of a boat meets that standard (.10 percent for recreational vessels; .04 for all other vessels), he or she can be fined and/or imprisoned.

It's time for the Corps to also recognize that saturating the field with water safety messages is good, but we too need teeth behind our words.

When Pittsburgh posted signs three years ago prohibiting alcohol at its projects, the district received little or no negative feedback. People seemed to accept the fact that alcohol was banned because it has been shown to cost lives. Like the motorcyclist who has to wear a helmet for his or her own good, it's time to tell the boater and swimmer what behavior is and is not acceptable at Corps lakes.

What an individual does at home is not our affair. But if we compare the consumption of alcohol at our lakes to walking off the dock bound and blindfolded, we owe it to our visitors to protect them from such danger.



A ranger checks out suspicious behavior.

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PLEASE READ PRIVACY ACT STATEMENT AND INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS FORM

SUGGESTION

1. SUGGESTION NO.

For use of this form, see AR 672-20; the proponent agency is the Office of the Deputy Chief of Staff for Personnel.

2. NAME OF SUGGESTER *(Last, first, middle initial)*
Wayne S. Easterling
Richard D. Graham

3. POSITION TITLE, GRADE AND SOCIAL SECURITY NUMBER
Park Ranger, GS-09, 226-82-6519
Park Ranger, GS-09, 414-76-3184

4. INSTALLATION OR ACTIVITY
J. Percy Priest Lake

5. ORGANIZATION
ORN-OR-JPP/R

6. OFFICE PHONE
880-1076

7. SUBJECT OF SUGGESTION
Alcohol prohibition on J. Percy Priest Lake.

The acceptance by me of a cash award or other form of recognition for this suggestion shall constitute an agreement that the use of the suggestion by the United States shall not form the basis of a further claim of any nature upon the United States by me, my heirs, or assigns.

8. DATE
4 August 1988

9. SIGNATURE OF SUGGESTER
Wayne S. Easterling Richard D. Graham

10. THANK YOU FOR YOUR SUGGESTION. It has been assigned the above Suggestion Number, shown under Item 1, above, and will be given careful consideration. You will be kept advised as to action taken.

11. SIGNATURE OF EXECUTIVE SECRETARY OR COORDINATOR

12. DATE

13. PRINTED/TYPED NAME AND OFFICE OR HOME ADDRESS WHERE YOU WISH AN ACKNOWLEDGEMENT SENT *(If home, include ZIP Code)*

Wayne S. Easterling
Resource Manager's Office
J. Percy Priest
Nashville, TN 37214-2660

Richard D. Graham
Resource Manager's Office
J. Percy Priest
Nashville, TN 37214-2660

14. SUBJECT OF SUGGESTION

15. SUGGESTION NUMBER

16. DESCRIPTION *(Describe the Current Situation and your Suggestion for change or improvement. Include where and how it can be used, and identify estimated tangible/intangible benefits which would result from adoption.)*

'Alcohol and other drugs may be the single major factor behind a majority of death and injury that occurs every year on our nation's rivers and lakes: two out of every three victims are under the influence of these drugs'(taken from the Corps of Engineers' 1988 publication Water Safety- Never Swim Alone). This has been common knowledge among recreation management professionals for many years. Knowing this then, what positive steps has the Corps of Engineers taken to reverse this trend? (1) Some lakes have prohibited alcohol at selected recreation areas resulting in less rowdyism, less garbage, and a more family-oriented atmosphere. (2) Posters, pamphlets, billboards, radio spot announcements, as well as Corps speaking engagements and multi-agency involvement have helped increase public awareness that 'alcohol and water don't mix.'

On the negative side--(1) Since the prohibition of alcohol on recreational lands there has been an increase in the number of alcohol-related accidents on the waters by the boating public. (2) The Corps, ironically, has given written approval to commercial boat docks permitting the sale of alcoholic beverages. Is it any wonder that water-related accidents continue to show the same trend: that over half involve alcohol. (3) By acknowledging the danger of alcohol usage upon recreational waters and

SUGGESTION FINISHED? Refer to Instruction Numbers 2 & 3 on reverse side of this set.
NEED MORE SPACE? Reverse entire set. Pull out long carbons. Reverse and reinsert long carbons. Continue under Item 16.

DA FORM 1 APR 79 1045 EDITION OF 1 SEP 72 IS OBSOLETE AND REPLACES DA FORM 1045-R. PRIVACY ACT STATEMENT, 26 SEP 75, WHICH IS OBSOLETE.

COPY 1

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 10 USC 1124 and 5 USC 4502.

PRINCIPAL PURPOSE(S): (a) In processing payment of cash awards to personnel, the Social Security Number *(SSN)* is utilized by the Finance and Accounting Office for reporting withholding tax to the Internal Revenue Service, and (b) Either office or home address is required so that the suggester can be advised of suggestion and results of action taken on it.

ROUTINE USES: SSN: (a) Identification of pay and personnel records, and (b) Forwarding address for military personnel. HOME ADDRESS: To notify employees of actions pertaining to suggestions.

MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL NOT PROVIDING INFORMATION: Disclosure of the SSN and other personal information is voluntary. However, failure to provide the SSN may result in delay in payment of a cash suggestion award. Failure to provide home address would result in acknowledgement and evaluation reports being sent to individual's employing office.

INSTRUCTIONS FOR COMPLETION/PROCESSING

SUGGESTER:

1. Complete all the unshaded items on the form.
2. After completion of your suggestion, pull and discard long carbon. DO NOT remove the short carbons.
3. Submit entire set *(Copies 1, 2 & 3)* to Executive Secretary of your local Incentive Awards Committee, who will assign a number to your suggestion and return Copy 3 to you as an acknowledgement of receipt.

EXECUTIVE SECRETARY: *(Short carbons included in the set to eliminate insertion of carbons by you.)*

4. Complete all SHADED items on the form.
5. Detach forms from the stub and short carbons.
6. Immediately return copy 3 to the Suggester's address specified in Item 13. *(Fold lines indicate where form may be folded to fit window envelope.)*
7. Use Copy 1 for evaluation purposes.
8. Retain Copy 2 as Incentive Awards Office official file copy.

CONTINUE YOUR SUGGESTION BELOW ON RULED LINES

(BE SURE YOU HAVE REVERSED CARBONS BEFORE YOU ENTER INFORMATION BELOW)

16. DESCRIPTION CONTINUED

yet permitting the continued sale of alcoholic beverages at boat docks, the Corps has put itself in jeopardy of being accused of negligence, either contributory or gross, in providing a safe environment for its visitors.

When alcohol kills on the water, the public and the law makers ask what can be done to prevent it from happening again. One supporting measure would be the prohibition of alcohol upon recreational waters. In the interest of public safety and 'Customer Care' we suggest that the Corps of Engineers prohibit the possession and/or use of alcoholic beverages upon all lands and waters of J. Percy Priest Lake, and that the Corps begin the prohibition by revoking in the public interest permission to sell alcoholic beverages at boat docks. Prohibition of alcohol may well decrease by half the number of water-related accidents on Corps projects.

A precedent has been set by the National Park Service, as well as numerous state and local governments, which prohibit alcoholic beverages within the confines of their parks. These agencies have proven repeatedly that prohibiting alcohol helps reduce the number of accidents and deaths, not to mention the number of fights, assaults, and vandalism. We have experienced the same results in our own areas where we have prohibited alcohol including a marked decrease in the number of drownings. The Corps should follow the lead of these other agencies which prohibit alcohol within their park boundaries and demonstrate publicly that we are serious about preventing further injuries and deaths, and that 'THE CORPS CARES'.

SUGGESTION IS NOW FINISHED: REFER TO INSTRUCTIONS NUMBER 2 AND 3 ABOVE.

"Alcohol and other drugs may be the single major factor behind a majority of death and injury that occurs every year on our nation's rivers and lakes: two out of every three victims are under the influence of these drugs"(taken from the Corps of Engineers' 1988 publication Water Safety--Never Swim Alone). This has been common knowledge among recreation management professionals for many years. Knowing this then, what positive steps has the Corps of Engineers taken to reverse this trend? (1) Some lakes have prohibited alcohol at selected recreation areas resulting in less rowdyism, less garbage, and a more family-oriented atmosphere. (2) Posters, pamphlets, billboards, radio spot announcements, as well as Corps speaking engagements and multi-agency involvement have helped increase public awareness that "alcohol and water don't mix."

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DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1070
NASHVILLE, TENNESSEE 37202-1070

IN REPLY REFER TO

Resource Management Office 11 Aug 1988

SUBJECT: Army Suggestion Program

Mr. Richard Graham
Resource Management Office
J. Percy Priest Lake
Nashville, TN 37214-2660

Dear Mr. ~~Easterling~~ Graham:

Thank you for submitting your suggestion on "Alcohol Prohibition on J. Percy Priest Lake". Attached is a copy for your file.

It has been assigned Suggestion No. CENV 88-36, and we have forwarded it to the appropriate office for evaluation. You will be informed of the decision made on your proposal.

Please continue to let us have the benefit of your ideas and suggestiona.

Sincerely,

Brenda Merkle

BRENDA MERKLE
Army Suggestion Program Coordinator

Enclosure

DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1070
NASHVILLE, TENNESSEE 37202-1070

IN REPLY REFER TO

OCT 31 1988

Resource Management Office

SUBJECT: Alcohol Prohibition on J. Percy Priest Lake

Mr. Richard D. Graham
Resource Manager's Office
J. Percy Priest
Nashville, Tennessee 37214-2660

Dear Mr. Graham:

Your suggestion, CENV 88-36, has not been adopted. A copy of the suggestion evaluation is attached for your information. If you have any questions or require additional assistance, please contact CEORN-RM-M.

Thank you for your participation in the Model Installation and Army Suggestion Programs. Ideas are the life line of progress and your ideas are always welcome.

Sincerely,

William L. Allen

WILLIAM L. ALLEN
LTC, Corps of Engineers
Deputy Commander
Chairman, Incentive Awards Program

Enclosure

SUGGESTION EVALUATION

For use of this form, see AR 672-20; the proponent agency is Office of the Deputy Chief of Staff for Personnel.

TO (Include ZIP code)	FROM (Include ZIP code)
Chairman, Incentive Awards Committee	Chief, Operations and Readiness Division

1. SUGGESTION TITLE	2. SUGGESTION NUMBER
Alcohol Prohibition on J. Percy Priest Lake	CENV 88-36

3. ACTION TAKEN OR RECOMMENDED

- ☐ a. APPROVED FOR ADOPTION ☐ TOTALLY ☐ PARTIALLY OR WITH MODIFICATION (Explain in Item 4)
  DATE SUGGESTION WAS OR WILL BE PUT INTO EFFECT ☐ ALSO RECOMMEND CONSIDERATION FOR WIDER APPLICATION AS INDICATED IN ITEM 4
- ☐ b. ALREADY IN USE OR UNDER CONSIDERATION (Explain in Item 4 indicating whether this suggestion contributed to the action in any way)
- ☒ c. NOT APPROVED FOR ADOPTION FOR REASONS SHOWN IN ITEM 4
- ☐ d. RECOMMEND ADOPTION, BUT APPROVAL NOT WITHIN JURISDICTION OF THIS OFFICE. REASONS FOR RECOMMENDATION ARE CONTAINED IN ITEM 4.
- ☐ e. NOT RECOMMENDED FOR ADOPTION FOR REASONS SHOWN IN ITEM 4
- ☐ f. OTHER (Specify in Item 4)

4. REASONS FOR ACTION TAKEN OR RECOMMENDED (If more space is needed, continue on reverse)

See Attached.

5. BENEFITS (Complete for all suggestions adopted or recommended for adoption)

- ☐ a. TANGIBLE (Show actual or estimated dollar savings in terms of man-hours or personnel spaces, estimated savings based on increased output, and/or materials, equipment or other resources saved, for the first year subsequent to adoption. Indicate cost of conversion and net first year savings)
- ☐ b. INTANGIBLE (Describe effect on operations, health, safety, welfare, or morale, and number of people and specific organizations affected. Based on criteria in AR 672-20, indicate whether significance is considered moderate potential value, substantial potential value, high potential value, or exceptional potential value and whether application is limited, extended, broad, or general)

Suggestion CENV 88-36, Alcohol Prohibition on J. Percy Priest Lake.

4. **REASONS FOR ACTION TAKEN OR RECOMMENDED**. The absolute prohibition of alcoholic beverages at US Army Corps of Engineers water resource projects, such as J. Percy Priest Lake, would no doubt reduce accidents and drownings, and save lives as the suggestor indicates, and statistics prove. This is a highly desired and humane goal, and the US Army Corps of Engineers should do everything within its authority and resources to accomplish it. Nevertheless, no mater how desirable the goals, the principle and practice of alcohol prohibition cannot be approved, for several reasons. The arguments against prohibition, and hence against approving this suggestion, stem from a consideration of the practicality, legality, and ethics of implementing such a suggestion:

a. Enforcement - Unlike small public parks and recreational lakes, the water resource projects in the Nashville District, including J. Percy Priest Lake, are huge in comparison. Access to these lakes is available from dozens of recreation areas and launching ramps, and from hundreds of miles of shoreline. If a regulation is to be effective, it must be enforced. It would be impossible to enforce a general prohibition of alcoholic beverages by our extremely limited law enforcement (ranger) staff. We would have to depend on most enforcement by similarly limited local law enforcement agencies. This leads to the second reason for not approving the suggested alcohol prohibition.

b. Legality - In regards to law enforcement jurisdiction, the US Army Corps of Engineers is unlike local and state parks, and most units of the National Parks System. These agencies exercise exclusive or concurrent jurisdiction, and enforce all laws on their properties. The US Army Corps of Engineers exercises proprietary jurisdiction, and can enforce only those laws and regulations authorized by Congress. Enforcement of general civil and criminal laws at US Army Corps of Engineers water resource projects is the responsibility of local law enforcement agencies.

The practice of prohibiting alcohol beverages at Nashville District recreation areas has been based on the authority of the District Commander to restrict use of public lands and water under Title 36, Code of Federal Regulations. This authority is limited to reasons of public health, public safety, maintenance or other reason in the public interest. Other US Army Corps of Engineers districts have used this Title 36 authority to prohibit consumption of alcoholic beverages. Water resource projects in those districts are small in comparison to Nashville's however.

c. Public Interest - Notwithstanding the practicality reason stated above, is alcohol prohibition in the public's interest? Regardless of how we personally feel about the issue or how worthwhile and humane the goal of prohibition, the United States Congress has said this is not the interest of the federal government. In the 21st Amendment to the United states Constitution, Congress repealed past efforts at federal prohibition of the manufacture and sale of alcoholic beverages (18th Amendment).

The decision to prohibit sale and consumption of alcoholic beverages is left up to the states. The states may delegate this authority to counties, as has been done in Tennessee and Kentucky. Therefore, the decision to prohibit alcohol rests with the people in each local county, and not with the federal government. Hence, the US Army Corps of Engineers has no business enforcing across-the-board prohibition of the sale and use of alcoholic beverages. The Title 36 restriction should be used only in limited, clear-cut cases where use of alcohol has caused a public menace.

d. Ethics - In many locales where the US Army Corps of Engineers exercises proprietary jurisdiction (i.e, 'wet' counties encompassing water resource projects), the public has deemed the sale and consumption of alcoholic beverages is an acceptable practice. While a minority of people in these locales do abuse this practice and cause injury and death, the majority of their citizens use alcoholic beverages in a respectable manner. Across-the-board prohibition penalizes the law abiding majority, no doubt to their dismay (e.g. prohibition in 1920 to 1933). Is it ethical, then, for an agency of the federal government to make rules which deprive everyone of their freedom to consume a legal beverage in order to crack down on the abusers? The suggestor may say 'YES!,' and those dedicated to saving human lives may cry out a loud 'YES!' But, as an agency of the federal government, we must say no. Freedom of choice is not to be taken lightly. If the freedom of drinking alcoholic beverages is to be denied, that choice must be made by the local citizens through their elected county government, not by the US Army Corps of Engineers.

Without the tool of prohibition, the US Army Corps of Engineers must make every reasonable effort to reduce the terrible tragedy of alcohol abuse on our lakes. Through a cooperative effort with local law enforcement agencies, individuals who recklessly use alcoholic beverages must be disciplined. Education, interpretive programs, and other educational efforts must be continued and expanded, particularly at marinas where alcoholic beverages are sold. And, limited restrictions on alcoholic beverages under Title 36 should be continued where such use is clearly menacing the public's interest which the US Army Corps of Engineers is responsible to protect.

DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1070
NASHVILLE, TENNESSEE 37202-1070

IN REPLY REFER TO

November 18, 1988

Resource Management Office

SUBJECT: Army Suggestion Program

Mr. Richard D. Graham
Resource Manager's Office
J. Percy Priest
Nashville, Tennessee 37214-2660

Dear Mr. Graham:

Your suggestion, CENV 88-36, on "Alcohol Prohibition on J. Percy Priest Lake" is being processed for reconsideration.

We have forwarded it to the appropriate office for evaluation. You will be informed of the decision made on your proposal.

Please continue to let us have the benefit of your ideas and suggestions.

Sincerely,

Michelle L. Hayhurst

MICHELLE L. HAYHURST
Army Suggestion Program Manager

To: CEORN-RM-M ATTN: Michelle L. Hayhurst
From: Wayne S. Easterling and Richard D. Graham, CEORN-OR-JPP/R
Date: November 15, 1988
Subject: Request for revaluation of suggestion CENV 88-36

We would like to request that suggestion CENV 88-36 be re-evaluated with the attached rebuttal to the reason for denial which is also attached. We would also recommend that as this is a safety suggestion that the Safety Office perform this evaluation.

Attached you will find a copy of the original suggestion, a copy of the reasons for denial, and a copy of our rebuttal to the reasons for denial.

Wayne S. Easterling

Richard D. Graham

REBUTTAL TO THE REASON FOR DENIAL OF SUGGESTION CENV 88-36

This suggestion was denied on four points; practicality of enforcement, legality, public interest, and ethics. We will address each of these points individually.

ENFORCEMENT: The reason for denial stated that it is not practical to use Title 36 to prohibit alcohol on the entire lake because of our limited man power, i.e., with only four rangers we cannot hope to cover the whole lake. Few if any law enforcement agencies in the country will claim to have sufficient man power to enforce every violation that occurs within their jurisdiction. We find ourselves in a similar position on J. Percy Priest Lake. Only one person in approximately every sixty thousand visitors ever receives a citation, however the number of visitors violating our various regulations is far higher. This should not be a major consideration as it is only one more item that we are spread to thin to adequately cover. The policy of not posting some areas while posting others actually adds to our work, as it creates confusion among our visitors and is viewed as arbitrary. To tell a visitor that he cannot have a beer in a picnic area, but can have it at the adjoining boat ramp or even in a boat at the picnic area is nonsensical. Furthermore, if we post an area it gives the law enforcement agencies with whom we have agreements a tool to use in assisting us in controlling our areas. This tool will hopefully help us and our colleagues to prevent future unsafe acts by the public.

LEGALITY: It was stated that because we have only retained proprietary interests that we have given up our jurisdiction. This is erroneous. No law prohibits a land owner or proprietor from establishing whatever rules of conduct it deems fit to be followed by its visitors. The visitors are not forced to be there, but while they are they may be required to follow certain guidelines. Further, the Congress of the United States has given us the jurisdiction and authority to post these rules under Title 36. As admitted in the denial other districts have exercised their rights in this respect and have banned alcohol at their water resource projects. The fact that they are smaller has nothing to do with it, and we too have this right if we choose to exercise our responsibility for public safety.

PUBLIC INTEREST: The 21st Amendment to the Constitution repealing the prohibition of alcohol was mentioned. We, the suggesters are in no way advocating a total prohibition of alcohol across the country. We do feel however that the consumption of alcoholic beverages does not have a place in a family-oriented park, and that as previously stated, as a proprietor we do have the right to establish rules to ensure

the publics safety and to enhance their stay with us. The denial also states "The Title 36 restriction should be used only in limited, clear-cut cases where use of alcohol has caused a public menace." During the summer of 1988 alone, J. Percy Priest Lake experienced two deaths and several severe injuries which were directly attributable to alcohol consumption. In fact, all of the fatalities which have occurred on J. Percy Priest Lake over the last two or three years have been alcohol related in one way or another. This appears to us then to present a clear-cut public menace.

ETHICS: Here the question is raised as to whether it is fair to penalize everyone for the abuses of a few. The evaluator feels that it is not fair and that as regards public opinion, it will be "...no doubt to their dismay." The government has never balked at prohibiting everyone from doing something because of the abuses of a few. Most criminal law is based on this premise, for example most people do not vandalize public facilities. That fact however has not prevented the government from writing laws prohibiting vandalizing public property. What this main argument seems to come down to is that prohibition may be unpopular and will generate controversy. We hate to think that the Nashville District is willing to sacrifice lives and injuries in order to avoid a little controversy.

SUMMARY: We believe that the suggestion to prohibit alcohol on J. Percy Priest Lake is valid both legally, and ethically, and is in the interest of public safety. As a landowner with proprietary jurisdiction we have a right and an obligation to post a set of rules indicating the way in which we expect our visitors to behave. The fact that we may have thin coverage of this or any other regulation should not enter into the consideration. Furthermore, as both a landowner and a governmental agency, we feel that if we know of a hazardous situation and we take no action to reduce that hazard, then we are morally and legally liable for any injury that may be incurred. Since the previous evaluator agrees that a hazard exists and that eliminating alcohol will help in reducing this hazard, we fail to see how a safety oriented organization such as the Corps can continue to deny us at least the opportunity of trying to correct the situation. We also believe that promoting water safety while failing to prohibit alcohol will be perceived by the public as just one more cause to which we only intend to pay lip service. We therefore urge you to reconsider adopting this suggestion.

DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1070
NASHVILLE, TENNESSEE 37202-1070

IN REPLY REFER TO

February 21, 1989

Resource Management Office

SUBJECT: Alcohol Prohibition on J. Percy Priest Lake

Mr. Richard D. Graham
Resource Manager's Office
J. Percy Priest
Nashville, Tennessee 37214-2660

Dear Mr. Graham:

Your suggestion, CENV 88-36, for which you requested reconsideration, has not been adopted. A copy of the suggestion evaluation is enclosed for your information. If you have any questions or require additional assistance, please contact CEORN-RM-M.

Thank you for your participation in the Model Installation and Army Suggestion Programs. Your ideas are always welcome.

Sincerely,

Edward A. Starbird
Colonel, Corps of Engineers
Commanding

Enclosure

14

SUGGESTION EVALUATION

For use of this form, see AR 672-20; the proponent agency is Office of the Deputy Chief of Staff for Personnel.

TO (Include ZIP code)	FROM (Include ZIP code)
Chairman, Incentive Awards Committee	Chief, Operations and Readiness Division

1. SUGGESTION TITLE: Alcohol Prohibition on J. Percy Priest Lake

2. SUGGESTION NUMBER: CENV 88-36

3. ACTION TAKEN OR RECOMMENDED

- [ ] a. APPROVED FOR ADOPTION ☐ TOTALLY ☐ PARTIALLY OR WITH MODIFICATION (Explain in Item 4)
  DATE SUGGESTION WAS OR WILL BE PUT INTO EFFECT
  ☐ ALSO RECOMMEND CONSIDERATION FOR WIDER APPLICATION AS INDICATED IN ITEM 4
- [ ] b. ALREADY IN USE OR UNDER CONSIDERATION (Explain in Item 4 indicating whether this suggestion contributed to the action in any way)
- [X] c. NOT APPROVED FOR ADOPTION FOR REASONS SHOWN IN ITEM 4
- [ ] d. RECOMMEND ADOPTION, BUT APPROVAL NOT WITHIN JURISDICTION OF THIS OFFICE. REASONS FOR RECOMMENDATION ARE CONTAINED IN ITEM 4.
- [ ] e. NOT RECOMMENDED FOR ADOPTION FOR REASONS SHOWN IN ITEM 4
- [ ] f. OTHER (Specify in Item 4)

4. REASONS FOR ACTION TAKEN OR RECOMMENDED (If more space is needed, continue on reverse)

The request for reconsideration of the original evaluation was reviewed and thoroughly evaluated by this office. Although the suggestors made several valid points in their argument, I feel the original evaluation is still valid. Due to the size and nature of Nashville District lakes, complete prohibition of alcholic beverages cannot be enforced. An unenforceable regulation will not accomplish the objective of this suggestion; i.e. reduce alcohol related accidents and deaths. The fact that there are just as many alcohol related drownings in "dry" counties as "wet" ones bears this out. The inappropriateness of the U.S. Corps of Engineers usurping the state's role in across-the-board alcohol control is another important reason this suggestion cannot be approved.

5. BENEFITS (Complete for all suggestions adopted or recommended for adoption)

- [ ] a. TANGIBLE (Show actual or estimated dollar savings in terms of man-hours or personnel spaces, estimated savings based on increased output; and/or materials, equipment or other resources saved; for the first year subsequent to adoption. Indicate cost of conversion and net first year savings)
- [ ] b. INTANGIBLE (Describe effect on operations, health, safety, welfare, or morale; and number of people and specific organizations affected. Based on criteria in AR 672-20, indicate whether significance is considered moderate potential value, substantial potential value, high potential value, or exceptional potential value and whether application is limited, extended, broad, or general)